

TITLE 13

Land Use Regulations

Chapter 1	Zoning Code
Chapter 2	Floodplain Zoning
Chapter 3	Shoreland-Wetland Zoning

Title 13 ► Chapter 1

Zoning Code

Article A

Introduction

13-1-1	Authority
13-1-2	Title
13-1-3	General Purpose
13-1-4	Intent and Purposes in View
13-1-5	Abrogation and Greater Restrictions
13-1-6	Interpretation
13-1-7	Severability and Non-Liability
13-1-8	Repeal and Effective Date
13-1-9 through	
13-1-19	Reserved for Future Use

Article B

General Provisions

13-1-20	Jurisdiction and General Provisions
13-1-21	Use Regulations
13-1-22	Site Regulations
13-1-23	Height and Area Exceptions
13-1-24	Miscellaneous Use Regulations
13-1-25	Special Provisions Regarding Lots/Uses
13-1-26 through	
13-1-29	Reserved for Future Use

Article C

Zoning Districts

13-1-30	Zoning Districts Designated
13-1-31	District Boundaries
13-1-32	R-1 Single-Family Residential District
13-1-33	R-2 Two-Family Residential District
13-1-34	R-3 Two-Family Condominium Residential District
13-1-35	R-4 Multiple-Family Residential District

13-1-36	CD-1 Conservancy District
13-1-37	C-1 Neighborhood Shopping Commercial District
13-1-38	C-2 Central Business District
13-1-39	I-1 Light Industrial District
13-1-40	I-1 Standard Industrial District
13-1-41	AT Agricultural Transition District
13-1-42	MW Municipal Well Recharge Area Overlay District
13-1-43 through	
13-1-49	Reserved for Future Use

Article D Planned Unit Development (PUD) Conditional Use

13-1-50	Planned Unit Development Conditional Use—Intent
13-1-51	Types of Planned Unit Development
13-1-52	General Requirements for Planned Unit Developments
13-1-53	Physical Requirements for Planned Unit Developments
13-1-54	Requirements as to Public Services and Facilities
13-1-55	Subsequent Land Divisions
13-1-56	Procedural Requirements—Intent
13-1-57	Procedural Requirements for Planned Unit Developments
13-1-58	Basis for Approval of the Petition for Planned Unit Development
13-1-59	Determination of Disposition of the Petition

Article E Conditional Uses

13-1-60	Statement of Purpose—Conditional Uses
13-1-61	Authority of the Plan Commission and Common Council; Requirements
13-1-62	Initiation of Conditional Use
13-1-63	Application for Conditional Use
13-1-64	Hearing on Application
13-1-65	Notice of Hearing on Application
13-1-66	Standards—Conditional Uses
13-1-67	Denial of Application for Conditional Use Permit
13-1-68	Conditions and Guarantees
13-1-69	Validity of Conditional Use Permit
13-1-70	Complaints Regarding Conditional Uses
13-1-71	Bed and Breakfast Establishments
13-1-72	Home Occupations
13-1-73	Resource Extraction — Conditional Use
13-1-74 through	
13-1-79	Reserved for Future Use

Article F Nonconforming Uses, Structures and Lots

- 13-1-80** Existing Nonconforming Uses and Structures
- 13-1-81** Abolishment or Replacement
- 13-1-82** Existing Nonconforming Structures
- 13-1-83** Changes and Substitutions
- 13-1-84** Substandard Lot
- 13-1-85 through**
- 13-1-89** Reserved for Future Use

Article G Traffic Visibility, Loading, Parking and Access

- 13-1-90** Traffic Visibility
- 13-1-91** Loading Requirements
- 13-1-92** Parking Requirements
- 13-1-93** Driveways
- 13-1-94** Highway Access
- 13-1-95** Storage and Parking of Recreational Vehicles
- 13-1-96** Storage of Tractors and Road Machinery
- 13-1-97 through**
- 13-1-99** Reserved for Future Use

Article H Signs, Canopies, Awnings and Billboards

- 13-1-100** Purpose of Sign, Canopy and Awning Regulations
- 13-1-101** Signs, Canopies, Awnings and Billboards—Definitions
- 13-1-102** Required Permits for Signs, Canopies, Awnings and Billboards
- 13-1-103** Signs Not Requiring a Permit
- 13-1-104** Residential Signs Requiring a Permit
- 13-1-105** Commercial and Industrial Signs Requiring a Permit
- 13-1-106** Special Sign Requirements
- 13-1-107** Awnings and Canopies
- 13-1-108** Landscape Features
- 13-1-109** Prohibited or Restricted Signs
- 13-1-110** Nonconforming Signs
- 13-1-111** Dangerous and Abandoned Signs
- 13-1-112** Construction and Maintenance Regulations for Signs
- 13-1-113** Variances or Exceptions
- 13-1-114** Violations of Sign Code
- 13-1-115 through**
- 13-1-119** Reserved for Future Use

Article I Performance Standards

13-1-120	Compliance
13-1-121	Sound
13-1-122	Vibration
13-1-123	Radioactivity
13-1-124	Toxic or Noxious Matter
13-1-125	Glare
13-1-126	Particulate Emissions
13-1-127 through	
13-1-129	Reserved for Future Use

Article J Signal Receiving Antennas; Wind Energy Systems; Wireless Telecommunications Systems

13-1-130	Signal Receiving Antennas
13-1-131	Conditional Use Permits Required—Wind Energy Systems
13-1-132	Permit Procedure—Wind Energy Systems
13-1-133	Specific Requirements Regarding Wind Energy Systems
13-1-134	Wireless Telecommunications Systems
13-1-135 through	
13-1-139	Reserved for Future Use

Article K Accessory Uses and Structures; Fences; Trees

13-1-140	Accessory Uses or Structures
13-1-141	Outside Storage of Firewood
13-1-142	Fences
13-1-143	Swimming Pools and Hot Tubs
13-1-144	Location of Trees Regulated
13-1-145 through	
13-1-149	Reserved for Future Use

Article L Administration

13-1-150	General Administrative System
13-1-151	Zoning Administrator
13-1-152	Role of Specific City Officials in Zoning Administration
13-1-153	Zoning Permit

- 13-1-154** Site Plan Approval
- 13-1-155** Violations and Penalties
- 13-1-156 through**
- 13-1-159** Reserved for Future Use

Article M Changes and Amendments to the Zoning Code

- 13-1-160** Authority
- 13-1-161** Initiation of Changes and Amendments
- 13-1-162** Procedure for Changes and Amendments
- 13-1-163** Protest
- 13-1-164 through**
- 13-1-169** Reserved for Future Use

Article N Appeals

- 13-1-170** Appeals to the Zoning Board of Appeals
- 13-1-171** Hearing of Appeals
- 13-1-172** Decisions of Board of Appeals
- 13-1-173** Variations
- 13-1-174** Review by Court of Record
- 13-1-175 through**
- 13-1-179** Reserved for Future Use

Article O Mobile Homes

- 13-1-180** Intent—Where Mobile Home Parks Permitted
- 13-1-181** Definitions
- 13-1-182** Mobile Home Park Regulations
- 13-1-183 through**
- 13-1-199** Reserved for Future Use

Article P Airport Height Limitation Zoning

- 13-1-200** Definitions
- 13-1-201** Mapping
- 13-1-202** Height Limitation Zones
- 13-1-203** Use Regulation Exceptions

13-1-204	Nonconforming Uses
13-1-205	Administration
13-1-206	Permits
13-1-207	Board of Appeals
13-1-208	Appeals and Review
13-1-209 through	
13-1-219	Reserved for Future Use

Article Q Definitions

13-1-220	Definitions
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Article A: Introduction

Sec. 13-1-1 Authority.

This Chapter is adopted under the authority granted by Sections 62.23(7) and 87.30 of the Wisconsin Statutes and amendments thereto.

State Law Reference: Section 62.23(7), Wis. Stats.

Sec. 13-1-2 Title.

This Chapter shall be known as, referred to and cited as the "Zoning Code, City of Amery, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

Sec. 13-1-3 General Purpose.

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the people of the City of Amery, Wisconsin.

Sec. 13-1-4 Intent and Purposes in View.

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- (b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;

13-1-4

- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
- (i) Preserve and protect the beauty of the City of Amery;
- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the City of Amery;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

Sec. 13-1-5 Abrogation and Greater Restrictions.

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

Sec. 13-1-6 Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Amery.

Sec. 13-1-7 Severability and Non-Liability.

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

Sec. 13-1-8 Repeal and Effective Date.

All other ordinances or parts of ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

Sec. 13-1-9 through Sec. 13-1-19 Reserved for Future Use.

Article B: General Provisions

Sec. 13-1-20 Jurisdiction and General Provisions.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Amery.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **Yard Reduction or Joint Use.**
 - (1) No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
 - (2) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Code shall be included as a part of a yard or other open space required for another building.
- (e) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot.
- (f) **Lots Abutting More Restrictive District.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

Sec. 13-1-21 Use Regulations.

Only the following uses and their essential services may be allowed in any district:

- (a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.
- (b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- (c) **Conditional Uses.**
 - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Common Council in

- accordance with Article E of this Chapter excepting those existent at time of adoption of the Zoning Code.
- (2) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Common Council in accordance with Article E of this Chapter.
 - (3) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Common Council in accordance with Article E of this Chapter.
 - (4) Conditional uses authorized by Common Council resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
- (d) **Temporary Uses.** Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator.
- (e) **Uses Not Specified in Code.**
- (1) Uses not specified in this Chapter which are found by the Common Council to be sufficiently similar to specified permitted uses for a district shall be allowed by Zoning Administrator.
 - (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Common Council after consideration and recommendation by the Common Council, public hearing and approval in accordance with Article E of this Chapter.

Sec. 13-1-22 Site Regulations.

- (a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of twenty-five (25) feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- (b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Common Council may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Common Council may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (d) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be

modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.

- (e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Common Council, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Common Council may affirm, modify or withdraw its determination of unsuitability.
- (f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Common Council, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (g) **Decks; Porches.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure. However, unenclosed porches not exceeding fifty (50) square feet in area, whether covered or uncovered, may project up to six (6) feet into a required front setback area.

Sec. 13-1-23 Height and Area Exceptions.

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials; microwave radio relay structures; telephone, telegraph

and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this Code and may be erected in accordance with other regulations or codes of the City.

- (c) Residences in the residence district may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot when such building exceeds the height limit of the district in which it is located.
- (d) Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
- (e) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than twenty-four (24) inches.
- (f) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.
- (g) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this Code of Ordinances, such lot may be occupied by one (1) family.

Sec. 13-1-24 Reduction or Joint Use.

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

Sec. 13-1-25 Special Provisions Regarding Lots/Uses.

The following special provisions establish miscellaneous regulations which have not been specifically provided for in other portions of this Chapter, yet are applicable to all zoning districts unless otherwise indicated:

(a) Special Requirements for Lake and River Frontage Lots.

- (1) The setback for buildings and parking lots shall be at least twenty-five (25) feet from the ordinary high water mark of a lake or river unless those improvements are to be located on property annexed by the City after May 7, 1982. The setback for those improvements after May 7, 1982 shall be administrated under the provisions of the Polk County Shoreline Ordinance which includes the general shoreland and wetland regulations.

- (2) Notwithstanding Subsection (a)(1) above, the setback for buildings and parking lots for all lots in subdivisions (major or minor) created after the original effective date of this Subsection, shall be at least sixty (60) feet from the ordinary high water mark of a lake or river.
- (b) **Single-Family Dwelling Minimum Width.** A single-family dwelling, excluding a manufactured home when located in a mobile home park, shall have a minimum width of twenty-four (24) feet.

Sec. 13-1-26 through Sec. 13-1-29 Reserved for Future Use.

Article C: Zoning Districts

Sec. 13-1-30 Zoning Districts Designated.

- (a) For the purpose of this Chapter, the City of Amery is hereby divided into the following twelve (12) zoning districts:
- (1) R-1 Single-Family Residential District
 - (2) R-2 Two-Family Residential District
 - (3) R-3 Two-Family Condominium Residential District
 - (4) R-4 Multiple-Family Residential District
 - (5) CD-1 Conservancy District
 - (6) C-1 Neighborhood Shopping Commercial District
 - (7) C-2 Central Business District
 - (8) I-1 Light Industrial District
 - (9) I-2 Standard Industrial District
 - (10) AT Agricultural Transition District
 - (11) MW Municipal Well Recharge Area Overlay District
 - (12) Floodplain (FP) and Floodway (FW) Districts pursuant to Title 13, Chapter 2.

Sec. 13-1-31 District Boundaries.

- (a) **Zoning Map.** The boundaries of the districts enumerated in Section 13-1-30 above are hereby established as shown on a map entitled "Zoning Map, City of Amery, Wisconsin," which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Mayor and the City Administrator and shall be available to the public in the office of the City Administrator.
- (b) **Boundary Lines.**
- (1) The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map.
 - (2) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the Zoning Map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.
 - (3) In unsubdivided property, the district boundary lines shown on the Zoning Map shall be determined by use of the scale shown on such map.

- (c) **Vacation.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (d) **Annexations and Consolidations.** Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the R-1 Residential District unless the annexation ordinance temporarily placed the land in another district.
- (e) **Rules for Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
 - (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following City boundaries shall be construed as following municipal boundaries.
 - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
 - (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
 - (6) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

Sec. 13-1-32 R-1 Single-Family Residential District.

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a low dwelling unit per acre density. This District is intended to provide residential development limited to single-family homes set individually on separate lots.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-1 District:
 - (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The

enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.

- c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Amery.
- (3) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 specifications.
 - (4) Accessory uses and buildings as follows:
 - a. Gardening, tool and storage sheds incidental to the residential use, per Section 13-1-140 specifications.
 - b. Off-street parking facilities.
 - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
 - d. Signs as permitted by City ordinances.
 - (5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (6) Day care or foster family care of children.
 - (7) Home occupations and professional home offices complying with Section 13-1-72.
 - (8) Garage sales.
 - (9) Storage buildings and accessory sheds which comply with setback and lot coverage requirements. (See Article K.)
 - (10) Hard surface sport and play areas.
 - (11) Solar equipment and antenna. Height limits for the district apply.
 - (12) Pets and small animals may be kept provided that their keeping shall not be unreasonably objectionable or disruptive to normal residential occupancy or a hazard to public health and safety; the standards of Title 7, Chapter 2. Commercial animal operations are not permitted in residential districts. Farm animals are not permitted in residential districts.
 - (13) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.

- (2) Public school, kindergarten, elementary and high or private school having a curriculum the same as ordinarily given in a public school, provided that any such building shall be located not less than thirty-five (35) feet from any side lot line.
 - (3) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (4) Bed and breakfast inns [7011].
 - (5) Churches, schools, and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops, provided that any buildings be located not less than thirty-five (35) feet from any side lot line.
 - (6) Public utility structures, except those incompatible with the characteristics of the district.
 - (7) Parks and playgrounds.
 - (8) Planned unit development residential developments (see Article D).
 - (9) Golf courses and private clubs.
 - (10) Nursing and rest homes for senior citizens.
 - (11) Nursery schools.
 - (12) Medical/dental clinics.
 - (13) Cemeteries.
 - (14) The outside storage of *no more than two (2)* of each of the following: building for ice fishing, mobile home trailer, camper, utility tractor, two boats or canoes over 16 feet in length, recreational vehicle, if the above-named are owned by the residents or family members.
 - (15) Funeral homes.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area (Single-Family Homes): Minimum ten thousand five (10,000) square feet.
 - b. Width: Minimum eighty (80) feet.
 - c. Maximum lot coverage: Fifty percent (50%).
 - d. Building Site: (Minimum Required Floor Area; Principal Building).
 1. One-story: Eight hundred fifty (850) square feet.
 2. Two-story: One thousand two hundred (1,200) square feet.
 3. Dwelling width: See Section 13-1-25(b).
 - (2) **Building Height.** Maximum thirty-five (35) feet or three (3) stories.
 - (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum eight (8) feet.
 - c. Side: Minimum eight (8) feet each side.
 - d. Lake and river lots: The above setbacks shall be as modified in Section 13-1-25(a).

Sec. 13-1-33 R-2 Two-Family Residential District.

- (a) **Purpose.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations in the R-2 Two-Family Residential District. This District is intended to provide two-family dwellings, such as duplexes, flats or apartment conversions in large, older, single-family dwellings.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:
 - (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Amery.
 - (3) Two-family dwellings.
 - (4) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 specifications.
 - (5) Accessory uses and buildings as follows:
 - a. Gardening, tool and storage sheds incidental to the residential use, per Section 13-1-140 specifications.
 - b. Off-street parking facilities.
 - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
 - d. Signs as permitted by City ordinances.
 - (6) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (7) Daycare or foster family care of children.

- (8) Home occupations and professional home offices complying with Section 13-1-72.
 - (9) Garage sales.
 - (10) Storage buildings and accessory sheds which comply with setback and lot coverage requirements. (See Article K.)
 - (11) Hard surface sport and play areas.
 - (12) Solar equipment and antenna. Height limits for the district apply.
 - (13) Pets and small animals may be kept provided that their keeping shall not be unreasonably objectionable or disruptive to normal residential occupancy or a hazard to public health and safety; the standards of Title 7, Chapter 2. Commercial animal operations are not permitted in residential districts. Farm animals are not permitted in residential districts.
 - (14) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-2 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (3) Bed and breakfast inns [7011].
 - (4) Churches, schools, and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops, provided that any buildings be located not less than thirty-five (35) feet from any side lot line.
 - (5) Public utility structures, except those incompatible with the characteristics of the district.
 - (6) Parks and playgrounds.
 - (7) Planned unit development residential developments (see Article D).
 - (8) Golf courses and private clubs.
 - (9) Nursing and rest homes for senior citizens.
 - (10) Hospitals and medical/dental clinics.
 - (11) Cemeteries.
 - (12) The outside storage of *no more than two* of each of the following: building for ice fishing, mobile home trailer, camper, utility tractor, two boats or canoes over 16 feet in length, recreational vehicle, if the above-named are owned by the residents or family members.
 - (13) Funeral homes.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot Area.**
 - a. One-Family: Seven thousand six hundred (7,600) square feet.
 - b. Two-Family (per family): Three thousand eight hundred (3,800) square feet.
 - c. Width: Minimum seventy (70) feet.

- (2) **Building Height.** Maximum thirty-five (35) feet or three (3) stories.
- (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum eight (8) feet.
 - c. Side: Minimum eight (8) feet each side.
 - d. Lake and River Lots: The above setbacks shall be as modified in Section 13-1-25(a).
- (4) **Building Size (Minimum Required Floor Area, Principal Building).**
 - a. One-Family: Eight hundred fifty (850) square feet.
 - b. Two-Story: One thousand six hundred (1,600) square feet.
 - c. Dwelling Width: See Section 13-1-25(b).

Sec. 13-1-34 R-3 Two-Family Condominium Residential District.

- (a) **Purpose.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations in the R-3 Two-Family Condominium Residential District. This District is intended to provide two-family condominium residential dwellings in areas found by the Common Council, upon the recommendation of the Plan Commission, to be compatible with existing neighborhoods. Zero lot line condominium two-family dwellings are only permitted in this District.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-3 District:
 - (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
 - (2) Manufactured single-family homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Amery.

- (3) Two-family condominium dwellings, organized under Wisconsin's condominium statutes and owner-occupied.
 - (4) One (1) private garage with not more than three (3) stalls for each residential parcel, per Section 13-1-140 specifications.
 - (5) Accessory uses and buildings as follows:
 - a. Gardening, tool and storage sheds incidental to the residential use, per Section 13-1-140 specifications.
 - b. Off-street parking facilities.
 - c. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures.
 - d. Signs as permitted by City ordinances.
 - (6) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (7) Daycare or foster family care of children.
 - (8) Home occupations and professional home offices complying with Section 13-1-72.
 - (9) Garage sales.
 - (10) Storage buildings and accessory sheds which comply with setback and lot coverage requirements. (See Article K.)
 - (11) Hard surface sport and play areas.
 - (12) Solar equipment and antenna. Height limits for the district apply.
 - (13) Pets and small animals may be kept provided that their keeping shall not be unreasonably objectionable or disruptive to normal residential occupancy or a hazard to public health and safety; the standards of Title 7, Chapter 2. Commercial animal operations are not permitted in residential districts. Farm animals are not permitted in residential districts.
 - (14) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
- (c) **Conditional Uses.** The following are permitted as conditional uses within the R-3 District:
- (1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (3) Bed and breakfast inns [7011].
 - (4) Churches, schools, and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops, provided that any buildings be located not less than thirty-five (35) feet from any side lot line.
 - (5) Public utility structures, except those incompatible with the characteristics of the district.
 - (6) Parks and playgrounds.
 - (7) Planned unit development residential condominium developments (see Article D).

- (8) Golf courses and private clubs.
 - (9) Nursing and rest homes for senior citizens.
 - (10) Hospitals and medical/dental clinics.
 - (11) Cemeteries.
 - (12) The outside storage of *no more than two* of each of the following: building for ice fishing, mobile home trailer, camper, utility tractor, two boats or canoes over 16 feet in length, recreational vehicle, if the above-named are owned by the residents or family members.
 - (13) Funeral homes.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot Area.**
 - a. One-Family: Seven thousand six hundred (7,600) square feet.
 - b. Two-Family (per family): Ten thousand (10,000) square feet.
 - c. Width: Minimum eighty (80) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet or three (3) stories.
 - (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum eight (8) feet.
 - c. Side: Minimum eight (8) feet each side.
 - d. Lake and River Lots: The above setbacks shall be as modified in Section 13-1-25(a).
 - (4) **Building Size (Minimum Required Floor Area, Principal Building).**
 - a. One-Family: Eight hundred fifty (850) square feet.
 - b. Two-Story: One thousand six hundred (1,600) square feet.
 - c. Dwelling Width: See Section 13-1-25(b).
- (e) **Permitted Special Use – Zero Lot Line Condominium Duplexes.**
- (1) A zero lot line duplex under condominium ownership may be built on the dividing line between two halves of an existing legal lot of record having at least ten thousand (10,000) square feet in area and at least eighty (80) feet of lot width;
 - (2) The common wall of the zero lot line duplex shall be centered on the dividing line between the two (2) halves of the lot;
 - (3) The setback from the opposite lot line shall be not less than ten (10) feet;
 - (4) When attached dwelling units are created, the plans, specifications, and construction of such building shall require that the installation and the construction of sewer, water and other utility services be done in such a manner so as to provide separate systems to each dwelling unit; provided however, that common services are permitted if:
 - a. Current Wisconsin State Plumbing Code permits the installation of common systems and
 - b. Cross easement and maintenance provisions for the common systems are provided for and included in the Deed Restrictions referred to in Subsection (e)(5) below.

- (5) When attached dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, and maintenance shall be guarded against by private covenants, deed restrictions and the approving authority. Deed restrictions shall provide:
- a. Each side of the building shall be constructed at the same time and in such a way as to be harmonious with the other side so that the overall effect is aesthetically pleasing.
 - b. Each side of the duplex shall be provided with a minimum of two (2) trees and foundation plantings covering two-thirds (2/3) of the street side of the unit. Lots shall be maintained equally with respect to lawn care, pruning of shrubs and trees.
 - c. The dwelling shall be painted, stained or sided one (1) color scheme and any subsequent repainting, staining or siding shall be of one (1) color scheme, or according to the plan established by these covenants.
 - d. Violation of these covenants should be handled by the signing parties; however, they shall provide that the City may enforce the same or facilitate the proper solution.
 - e. Copies of the deed restrictions and private covenants shall be placed on file in the City Administrator's office and recorded in the office of the County Register of Deeds.
 - f. Changes to covenants or deed restrictions shall require an amendment to the special use approval or conditional use permit required by the zoning ordinance.
 - g. Basements shall be provided across zero lot lines where necessary for water, sewer and utility services.
 - h. There shall be a common wall which shall be a minimum one (1) hour fire wall running from the lowest floor level, including the basement, to the underside of the roof sheathing. Such basement wall, if any, shall be masonry.
 - i. No fences shall be permitted along the zero lot line in the front or rear yards.

Sec. 13-1-35 R-4 Multiple-Family Residential District.

- (a) **Purpose.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations in the R-4 Multiple Family Residential District. This District is intended to provide for apartments, to include family or garden types, elevator and walk-up type, efficiency or studio type and apartment conversions in existing single-family dwellings.
- (b) **Permitted Uses.**
- (1) Two-family dwellings (duplex).
 - (2) Multiple-family dwellings.

- (3) Boarding houses and lodges.
- (4) Accessory building or use, including a private garage, carport and paved parking areas customarily incident to the above uses, but not involving the conduct of a business.

(c) **Conditional Uses.**

- (1) Parks and playgrounds.
- (2) Professional home offices.
- (3) Planned residential developments.
- (4) Golf courses and private clubs.
- (5) Sewage disposal facilities.
- (6) Utilities.
- (7) Schools and churches.
- (8) Government, cultural, and public uses such as fire and police stations, community centers, libraries, public emergency shelters and museums, provided that any building shall be located not less than thirty-five (35) feet from any side lot line.
- (9) Home occupations.
- (10) Nursery schools.
- (11) Retirement homes.
- (12) Single-family dwellings.
- (13) Mobile home parks.
- (14) Private lodges and clubs.
- (15) Family day care.
- (16) Church or other place of worship or Sunday school, provided that any such building shall be located not less than thirty-five (35) feet from any side lot line.
- (17) Public school, kindergarten, elementary and high or private school, provided that any such building shall be located not less than thirty-five (35) feet from any side lot line.
- (18) Truck gardening, nursery and/or horticulture.

(d) **Area, Height and Yard Requirements.**

- (1) **Lot.**
 - a. Area: Minimum ten thousand (10,000) square feet, plus one thousand five hundred (1,500) square feet for each family over two.
 - b. Width: Minimum one hundred (100) feet.
 - c. Maximum lot coverage: Fifty percent (50%) maximum.
- (2) **Building Height.** Maximum forty-five (45) feet. A building may be erected to a height of seventy-five (75) feet if set back from all required yard lines, a distance of one (1) foot for each foot of additional height above forty-five (45) feet.
- (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum ten (10) feet each side.
 - d. Lake and River Lots: The above setbacks shall be as modified in Section 13-1-25(b).

(4) ***Building Size (Minimum Required Floor Area; Principal Building).***

- a. One-Family: Eight hundred fifty (850) feet.
- b. Two-Family or More: Eight hundred (800) feet per family.
- c. Building Width: See Section 13-1-25(b).

Sec. 13-1-36 CD-1 Conservancy District.

(a) **Purpose.** The purpose of this District is to preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, or aesthetic value of the community.

(b) **Permitted Uses.**

- (1) Forest and game management; wildlife preserves.
- (2) Hunting, fishing and hiking.
- (3) Parks and recreation areas (public and private); arboreta; botanical gardens; greenways.
- (4) Stables.
- (5) Utilities.
- (6) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
- (7) Harvesting of wild crops.
- (8) Recreation related structures not requiring basements.
- (9) Preservation of scenic, historic, and scientific areas.
- (10) Public fish hatcheries.
- (11) Soil and water conservation.
- (12) Sustained yield forestry.
- (13) Hunting, fishing and trapping in compliance with City ordinances.

(c) **Conditional Uses.**

- (1) Animal hospitals, shelters and kennels.
- (2) Archery and firearm ranges, sports fields and skating rinks.
- (3) Land restoration, flowage, ponds.
- (4) Golf courses and clubs.
- (5) Ski hills and trails.
- (6) Yacht clubs and marinas; boat harbors.
- (7) Recreation camps.
- (8) Public and private campgrounds.
- (9) Riding stables.
- (10) Sewage disposal plants.
- (11) Governmental, cultural and public buildings or uses.
- (12) Utilities.

- (13) Hunting and fishing clubs.
- (14) Farm structures.
- (15) Grazing.
- (16) Residential and agricultural uses existing at the time of the creation of this District.
- (17) Other uses consistent with the purpose of this District and approved by the Common Council.

(d) **Area, Height and Yard Requirements.**

(1) **Lot.**

- a. Area: Minimum one (1) acre.
- b. Width: Minimum one hundred (100) feet.
- c. Residential Dimensional Requirements: Single-family dwelling units shall comply with the R-1 standards. No other dimensional standards are applicable in the Conservancy District.

(2) **Building Height.** Maximum thirty-five (35) feet.

(3) **Other Structures Height.** Maximum one-half (1/2) the distance from the structures nearest lot line.

(4) **Yards.**

- a. Street: Minimum twenty (20) feet.
- b. Rear: Minimum twenty (20) feet.
- c. Side: Minimum twenty (20) feet except structures used for the housing of shelters of animals must be one hundred (100) feet from lot lines.
- d. Lake and River Lots: The above setbacks shall be as modified in Section 13-1-25(a).

(5) **Special Procedures.** Proceedings before the Board of Zoning Appeals that involve DNR-designated wetlands are found in NR 117, Wis. Adm. Code, and are acknowledged herein as governing City regulatory activities in the Conservancy District where NR 117 regulations are more restrictive than those in this Chapter.

Sec. 13-1-37 C-1 Neighborhood Shopping Commercial District.

- (a) **Purpose.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations in the C-1 Neighborhood Shopping Commercial District. This District is intended to provide for small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood, and the character, appearance and operation of which are compatible with the character of the surrounding area.
- (b) **Permitted Uses.** A building or premise in the C-1 District shall be used only for the following purposes:
 - (1) Retail stores and shops offering convenience goods and personal services and not exceeding one thousand five hundred (1,500) square feet of primary floor space.

- (2) Business, professional, or public service office not exceeding one thousand (1,000) square feet of primary floor area.
- (3) An accessory building or use shall be used only for the following purposes:
 - a. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same buildings as the business.
 - b. Garages for storage of vehicles used in conjunction with the operation of the business.
 - c. Off-street parking and loading area, in the rear yard only.
 - d. Any other structure or use normally accessory to the above uses.
 - e. Any uses listed in R-1, R-2 and R-4 Districts.
- (c) **Conditional Uses.** A building or premise shall be used only for the following purposes when approved as a conditional use:
 - (1) Dental and medical clinics.
 - (2) Private lodges and clubs.
 - (3) Nursing and rest homes and homes for the aged.
 - (4) Funeral homes.
 - (5) Retail stores and shops with a primary floor area larger than one thousand five hundred (1,500) square feet.
 - (6) Business, professional and/or public service office with a primary floor area larger than one thousand (1,000) square feet.
 - (7) Automobile service stations.
 - (8) Rental apartments as a secondary use of a commercial building.
 - (9) Churches, etc.
 - (10) Green houses and nurseries.
 - (11) Fire stations, municipal utility buildings.
 - (12) Libraries.
 - (13) Parks and playgrounds.
 - (14) Recreation buildings and community centers.
 - (15) Hotels and motels.
 - (16) Parking facilities.
 - (17) Craft shop, manufacturing, distilling.
- (d) **Lot, Yard and Building Requirements.**
 - (1) **Lot Area.** Nine thousand six hundred (9,600) square feet.
 - (2) **Lot Width.** Eighty (80) feet.
 - (3) **Principal Building Yards.**
 - a. Front Yard. Twenty-five (25) feet.
 - b. Side Yard. Eight (8) feet.
 - c. Rear Yard. Eight (8) feet.
 - d. Lake and River Lots: The above setbacks shall be as modified in Section 13-1-25(a).

- (4) **Lot Coverage.** No requirement provided setback requirements are met.
- (5) **Building Height.** Three (3) stories or thirty-five (35) feet, whichever is less.

Sec. 13-1-38 C-2 Central Business District.

- (a) **Purpose.** The C-2 Central Business District is intended to provide an area for the business, financial, professional, and commercial needs of the community, especially those which can be most suitably located in a compact, centrally located traditional business district. The C-2 District is intended to establish and preserve an intensive business district that serves as a retail, entertainment and service center. The C-2 Central Business District should be conducive to pedestrian movement in addition to accommodating vehicular traffic.
- (b) **Permitted Uses.** The following uses of land are permitted in the C-2 Central Business District:
 - (1) Paint, glass and wallpaper stores. [523]
 - (2) Hardware stores. [525]
 - (3) Department stores, variety stores, general merchandise stores. [53]
 - (4) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores. [54]
 - (5) Candy, nut or confectionery stores. [544]
 - (6) Dairy products stores, including ice cream stores. [545]
 - (7) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery. [546]
 - (8) Clothing and shoe stores. [56]
 - (9) Furniture, home furnishings, floor covering and upholstery shops/stores. [57]
 - (10) Restaurants, lunch rooms and other eating places, except drive-in type establishments. [5812]
 - (11) Taverns, bars and other drinking places with permit by Common Council. [5813]
 - (12) Drug stores and pharmacies. [591]
 - (13) Liquor stores. [592]
 - (14) Antique stores and secondhand stores. [593]
 - (15) Sporting goods stores and bicycle shops. [5941]
 - (16) Bookstores, not including adult books. [5942]
 - (17) Stationery stores. [5943]
 - (18) Jewelry and clock stores. [5944]
 - (19) Camera and photographic supply stores. [5946]
 - (20) Gift, novelty and souvenir shops. [5947]
 - (21) Florist shops. [5992]

- (22) Tobacco and smokers' supplies stores. [5993]
- (23) News dealers and newsstands. [5994]
- (24) Wholesale merchandise establishments, only for retail items listed above; e.g., #19 would allow wholesale camera sales.
- (25) Banks and other financial institutions. [60-62]
- (26) Offices of insurance companies, agents, brokers and service representatives. [63-64]
- (27) Offices of real estate agents, brokers, managers and title companies. [65-67]
- (28) Miscellaneous business and professional offices.
- (29) Heating and plumbing supplies.
- (30) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and launderettes. Tailor shops, dressmakers' shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments. [721]
- (31) Photographic studios and commercial photography establishments. [722]
- (32) Barbershops, beauty shops and hairdressers. [723-4]
- (33) Shoe repair shops and shoe shine parlors. [725]
- (34) Trade and contractor's offices (office only).
- (35) Advertising agencies, consumer credit reporting, news agencies, employment agencies. [731-2, 735-6]
- (36) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops. [733]
- (37) Computer services. [737]
- (38) Commercial parking lots, parking garages, parking structures. [752]
- (39) Watch, clock and jewelry repair services. [763]
- (40) Motion picture theaters, not including drive-in theaters. [7832]
- (41) Miscellaneous retail stores. [5999]
- (42) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarian's offices. [801-4]
- (43) Law offices. [811]
- (44) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations. [86]
- (45) Engineering and architectural firms or consultants. [891-3]
- (46) Accounting, auditing and bookkeeping firms or services. [8721]
- (47) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations. [899]
- (48) The offices of governmental agencies and post offices. [91-92, 431]
- (49) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages. [411-14]

- (50) Telephone and telegraph offices. [481-2]
- (51) Residential units located on the second story of a commercial structure, provided proper living area, sanitary facilities and adequate means of ingress/egress exist.
- (c) **Conditional Uses.** The following are permitted as conditional uses in the C-2 Central Business District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Common Council with regard to such matters.
 - (1) Miscellaneous repair shops and related services. [769]
 - (2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments. [721]
 - (3) Establishments engaged in the publishing and printing of newspapers, periodicals or books. [2711]
 - (4) Residential units which are secondary to the principal use and located on the second story of a commercial structure, provided proper living area, sanitary facilities and adequate means of ingress/egress exist.
 - (5) Farm supplies, wholesale trade. [5191]
 - (6) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers. [551-2, 556]
 - (7) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories. [553]
 - (8) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line. [5541]
 - (9) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers. [703]
 - (10) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers. [751]
 - (11) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes. [754]
 - (12) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc. [70]
 - (13) Mini-shopping malls.
 - (14) Multi-family dwelling units.
 - (15) Light manufacturing or assembly.

(Note: Drive-in facilities; wholesale, farm implement, building supply establishments; and similar uses are not permitted and are more appropriate to the C-3 District.)

(d) **Lot, Yard and Building Requirements.**

(1) **Lot Area.**

- a. Minimum Area: None.
- b. Minimum Width: None.

(2) **Yards.**

- a. Minimum Front Yard: None¹.
- b. Minimum Either Side Yard: None².
- c. Minimum Aggregate Side Yard: None.
- d. Minimum Rear Yard: None³.
- e. Lake and River Lots: The above setbacks shall be as modified in Section 13-1-25(a).

(3) **Height.** Maximum permitted — principal structure: Seventy-five (75) feet.

- ¹ Keller Avenue between Hyland Street and Center Street no building or any part thereof, including steps, nor any obstruction of any kind shall be built within thirteen (13) feet from the back of the curb.
- ² Side yards when adjacent or abutting to residential district will maintain a setback of ten (10) feet.
- ³ Rear yards when adjacent or abutting to residential district will maintain a setback of twenty-five (25) feet.

Sec. 13-1-39 I-1 Light Industrial District.

- (a) **Purpose.** The regulations set forth in this Section or set forth elsewhere in this Chapter, when referred to in this Section, are the regulations in the I-1 Light Industrial District. This District is intended to provide for manufacturing, industrial and related uses of a limited nature and size in situations where such uses are not in basic industrial groups and where the relative proximity to other uses requires more restrictive regulation.

- (b) **Permitted Uses.** A building or premise in the I-1 District shall be used only for the following purposes:

- (1) Manufacturing, assembly, fabrication and processing plants of limited scope and not involving any substantial degree of heavy trucking or other operational characteristics which would adversely affect surrounding uses or be basically incompatible with surrounding environmental character and not more than ten percent (10%) of the lot or tract is used for the open storage of products, materials or equipment.
- (2) Experimental, testing and research laboratories not involving the keeping of animal products or any significant degree of danger or undesirable operational characteristics.
- (3) Printing and publishing houses and related activities.

- (4) Tool making, cabinetry and repair shops.
- (5) Automobile service stations.
- (6) Public utility office and installations.
- (7) General warehousing, not to include open storage.
- (8) Lumber and building supply yards, not to include open storage.
- (9) Automobile body repair shop, not including the storage of junked or wrecked automobiles and parts.
- (10) An accessory building or use shall be used only for the following purposes:
 - a. Office, storage, power supply and other such uses normally auxiliary to the principal use.
 - b. Off-street parking, loading and service facilities.
 - c. Residential quarters for the owner, resident operator, guard or caretaker.
- (11) Any uses permitted in the C-1 or C-2 Districts except for residential uses.

Cross-Reference: Section 14-1-23(j).

Sec. 13-1-40 I-2 Industrial District.

- (a) **Purpose.** The I-2 Industrial District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- (b) **Permitted Uses.** No uses are permitted as a matter of right within the I-2 District. All uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article E.
- (c) **Conditional Uses.** The following are examples of conditional uses within the I-2 District. Such use shall be subject to the consideration of the Common Council and Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:
 - (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products. [20, 23-28, 30, 32-39]
 - (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.

- (3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening. [50, 51]
- (4) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies.
- (5) Wholesale establishments and warehouses. [50-51]
- (6) Building construction contractors. [15-17]
- (7) Highway passenger and motor freight transportation. [41-42]
- (8) Light Industry and Service Uses.
 - a. Automotive body repair.
 - b. Automotive upholstery.
 - c. Cleaning, pressing, dyeing.
 - d. Commercial bakeries (retail or wholesale).
 - e. Commercial greenhouses (retail or wholesale).
 - f. Distributors.
 - g. Food locker plants.
 - h. Printing and publishing.
 - i. Trade and contractor's facilities.
 - j. Offices.
 - k. Painting services.
 - l. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
 - m. Recreation vehicle, boat and miscellaneous storage.
- (9) Public Facilities and Uses.
 - a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - b. Schools and churches.
 - c. Airports, airstrips and landing fields.
- (10) Agriculture Related Industry and Service Uses.
 - a. Production of natural and processed cheese.
 - b. Production of shortening, table oils, margarine and other edible fats and oils.
 - c. Production of condensed and evaporated milk.
 - d. Wet milling of corn.
 - e. Production of creamery butter.
 - f. Drying and dehydrating fruits and vegetables.
 - g. Preparation of feeds for animal and fowl.

- h. Pea vineries.
 - i. Creameries.
 - j. Production of flour and other grain mill products; blending and preparing of flour.
 - k. Fluid milk processing.
 - l. Production of frozen fruits, fruit juices, vegetables and other specialties.
 - m. Fruit and vegetable sauces and seasoning, and salad dressing preparation.
 - n. Poultry and small game dressing and packing, providing that all operations be conducted within an enclosed building.
 - o. Production of sausages and other meat products providing that all
 - p. Corn shelling, hay baling and threshing services.
 - q. Grist mill services.
 - r. Horticultural services.
 - s. Canning of fruits, vegetables, preserves, jams and jellies.
 - t. Canning of specialty foods.
 - u. Grain elevators and bulk storage of feed grains.
 - v. Fertilizer production, sales, storage, mixing and blending.
 - w. Sales or maintenance of farm implements and related equipment.
 - x. Animal hospitals, shelters and kennels.
 - y. Veterinarian services.
- (11) Outside storage and manufacturing areas, wrecking, junk, demolition and scrap yards, providing that they shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way, shall be at least six hundred (600) feet from residential or commercial structures, and shall be neatly maintained in such a manner so as to not constitute a nuisance or be detrimental to area property owners.
- (12) Miscellaneous Uses.
- a. Automotive parts stores.
 - b. Lawn and garden sales.
 - c. Recreational vehicle sales.
 - d. Home appliance sales.
 - e. Bait and tackle stores.
 - f. Variety department stores.
 - g. Restaurants.
 - h. Dance halls.
 - i. Automobile fuel and service stations.
- (13) Any uses permitted in the I-1, C-1, or C-2 Districts except for residential uses.
- (14) Uses similar to the above recommended by the Plan Commission and approved by the Common Council.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum one hundred (100) feet.

- (2) **Lot Area.** Minimum twenty thousand (20,000) square feet.
- (3) **Front Yard.** Minimum twenty-five (25) feet.
- (4) **Side Yards.** Minimum ten (10) feet.*
- (5) **Rear Yard.** Minimum thirty (30) feet.*
- (6) **Lake and River Lot Setbacks.** The above setbacks shall be as modified in Section 13-1-25(a).
- (7) **Building Height.** Maximum sixty (60) feet.
- (8) **Percentage of Lot Coverage.** Maximum seventy percent (70%).

*** Required Buffer Strips in Industrial Districts.** In newly developed or re-zoned areas where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be not less than four (4) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

Sec. 13-1-41 AT Agricultural Transition District.

- (a) **Purpose.** The AT District is intended to allow the conduct of agricultural pursuits on land within the City and to provide for the orderly transition of such land as to other future uses in a manner which is compatible with City land use plans and policies. The primary purpose of this District is to preserve, for an extended period of agricultural and related open space land uses, those lands generally located in the path of expected future development. It is the intent that urban development be deferred in such areas until the City determines that it is economically and financially feasible to provide public services and facilities for uses other than those permitted in the District. It is intended that the status of all areas in this District be reviewed by the appropriate planning bodies no less frequently than every ten (10) years in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted, and the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

- (b) **Permitted Uses.** Permitted uses include but are not limited to the following:
 - (1) Beekeeping;
 - (2) Commercial animal operations;
 - (3) Dairying;
 - (4) Orchards;
 - (5) Plant nurseries;
 - (6) Truck farming;
 - (7) Grazing;
 - (8) Paddocks;
 - (9) Game management;
 - (10) Livestock and poultry raising;
 - (11) Greenhouses;
 - (12) Commercial agriculture, general farming and hatcheries.
 - (13) Similar agricultural uses;
 - (14) Single-family dwelling units for residents, owners and operators.
- (c) **Conditional Uses.** Conditional uses may include but are not limited to the following:
 - (1) Storage and sale of seed, feed, fertilizer and other products essential to farm production.
 - (2) Duplex housing units.
 - (3) Housing for seasonal farm laborers.
- (d) **Lot, Yard and Building Requirements.**
 - (1) **Farm Units.** Five (5) acres minimum; housing shall comply with the yard/setback provisions of the R-1 District.

Sec. 13-1-42 MW Municipal Well Recharge Area Overlay District.

- (a) **District Purpose.** The City recognizes that consequences of certain land use activities, whether intentional or accidental, can seriously impair groundwater quality. The purpose of the Municipal Well Recharge Area Overlay District (MW) is to protect municipal groundwater resources from certain land use activities by imposing appropriate restrictions upon lands located within the approximate groundwater recharge area of the City's municipal wells. The restrictions imposed herein are in addition to those of the underlying residential, commercial, or industrial zoning districts or any other provisions of the zoning ordinance. The restrictions herein are in addition to those setbacks from a municipal water supply well for those certain land uses as identified and established in NR 811.16(4), Wis. Adm. Code, which are hereby adopted by reference. The City of Amery has developed a Wellhead Protection Plan that discusses the location of the protection areas in greater detail.
- (b) **Overlay Zones.** The Municipal Well Recharge Area Overlay District is hereby divided into Zone A and Zone B as follows:

- (1) Zone A is identified as the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contaminants to the municipal wells. Zone A is more restrictive than Zone B. Zone A is that area within one thousand two hundred (1,200) feet of an existing well as defined in the City of Amery Wellhead Protection Plan.
 - (2) Zone B is identified as a secondary source of water for the municipal well aquifer and as an area where there is a lower probability of surface contaminants reaching the municipal well fields. Zone B is less restrictive than Zone A. Zone B is defined as that area up-gradient from each well for a distance of one thousand two hundred (1,200) feet to two thousand six hundred forty (2,640) feet.
- (c) **Zone A Prohibited Uses.** The following land uses are hereby found to have a high potential to contaminate or have already caused groundwater contamination problems in Wisconsin and elsewhere. The following principal or accessory uses are hereby prohibited within Zone A of the Municipal Well Recharge Area Overlay District:
- (1) Areas for dumping or disposal of garbage, refuse, trash or demolition material.
 - (2) Asphalt products manufacturing plants.
 - (3) Automobile laundries.
 - (4) Automobile service stations.
 - (5) Building materials and products sales.
 - (6) Cartage and express facilities.
 - (7) Cemeteries.
 - (8) Chemical storage, sale, processing or manufacturing plants.
 - (9) Dry cleaning establishments.
 - (10) Electronic circuit assembly plants.
 - (11) Electroplating plants.
 - (12) Exterminating shops.
 - (13) Fertilizer manufacturing or storage plants.
 - (14) Foundries and forge plants.
 - (15) Garages—for repair and servicing of motor vehicles, including body repair, painting or engine rebuilding.
 - (16) Highway salt storage areas.
 - (17) Industrial liquid waste storage areas.
 - (18) Junk yards and auto graveyards.
 - (19) Metal reduction and refinement plants.
 - (20) Mining operations.
 - (21) Motor and machinery service and assembly shops.
 - (22) Motor freight terminals.
 - (23) Pain products manufacturing.
 - (24) Petroleum products storage or processing.
 - (25) Photography studios, including the developing of film and pictures.

- (26) Plastics manufacturing.
- (27) Printing and publishing establishments.
- (28) Pulp and paper manufacturing.
- (29) Residential dwelling units on lots less than fifteen thousand (15,000) square feet in area. However, in any residence district, on a lot of record on the effective date of this Section, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of the City's Zoning Ordinance are complied with.
- (30) Septage disposal sites.
- (31) Sludge disposal sites.
- (32) Storage, manufacturing or disposal of toxic or hazardous materials.
- (33) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.
- (34) Woodworking and wood products manufacturing.
- (d) **Zone A Conditional Uses.** The following conditional uses may be allowed in the Municipal Well Recharge Area Overlay District, subject to the provisions of Article E:
 - (1) Any other business or industrial use not listed as a prohibited use.
- (e) **Zone B Prohibited Uses.** The following principal or accessory uses are hereby prohibited within Zone B of the Municipal Well Recharge Area Overlay District:
 - (1) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.
- (f) **Zone B Conditional Uses.** The following conditional uses may be allowed in the Municipal Well Recharge Area Overlay District, subject to the provisions of Article E:
 - (1) Any business or industrial use.
 - (2) Animal waste storage areas and facilities.
 - (3) Center-pivot or other large scale irrigated agriculture operations.

Sec. 13-1-43 through Sec. 13-1-49 Reserved for Future Use.

Article D: Planned Unit Development (PUD) Conditional Use

Sec. 13-1-50 Planned Unit Development Conditional Use—Intent.

- (a) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.
- (b) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the City upon specific petition under Section 13-1-57 of this Chapter and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

Sec. 13-1-51 Types of Planned Unit Developments.

This Article contemplates that there may be a Residential, Commercial, Industrial Planned Unit Developments and Mixed Compatible Use Developments.

Sec. 13-1-52 General Requirements for Planned Unit Developments.

A planned unit development shall be consistent in all respects to the expressed intent of this Article and to the spirit and intent of this Chapter; shall be in conformity with the adopted master plan (comprehensive land use and thoroughfare plan), neighborhood plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.

Sec. 13-1-53 Physical Requirements for Planned Unit Developments.

- (a) **Minimum Area Requirements.** Areas designated as planned unit developments shall contain a minimum development area as follows:

Principal Uses	Minimum Area of PUD
Residential PUD	3 acres
Commercial PUD	5 acres
Industrial PUD	10 acres
Mixed Compatible Use	10 acres

- (b) **Density Requirements (Lot Area, Width and Yard Requirements).** The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.
- (c) **Building Height and Area Requirements.**
- (1) Buildings in a planned unit development shall not exceed the height permitted in the basic use district.
 - (2) Buildings in a planned unit development shall have a minimum area that is equal to or greater than that required in the basic use district.
- (d) **Single Parcel, Lot or Tract.** At the time of filing, the planned unit development shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract.

Sec. 13-1-54 Requirements as to Public Services and Facilities.

- (a) The development site shall be provided with adequate drainage facilities for surface and storm waters.
- (b) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
- (c) No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
- (d) The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the City.
- (e) Public water and sewer facilities shall be provided.

Sec. 13-1-55 Subsequent Land Division.

The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the City when such division is contemplated.

Sec. 13-1-56 Procedural Requirements—Intent.

Sections 13-1-50 through 13-1-55 set forth the basic philosophy and intent in providing for Planned Unit Developments, the kinds thereof, the general requirements, physical requirements and requirements as to public services and facilities. The following sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.

Sec. 13-1-57 Procedural Requirements for Planned Unit Developments.

- (a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a planned unit development, the owner or his/her agent making such petition shall meet with the Common Council or its staff to discuss the scope and proposed nature of the contemplated development.
- (b) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the City Administrator for approval of a planned unit development. Such petition shall be accompanied by a review fee as prescribed by Section 1-3-1, as well as incorporate the following information:
 - (1) **Informational Statement.** A statement which sets forth the relationship of the proposed PUD to the City's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:
 - a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
 - d. Any proposed departures from the standards of development as set forth in the City zoning regulations, land subdivision ordinance, other City regulations or administrative rules, or other universal guidelines.
 - e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
 - (2) **A General Development Plan Including:**
 - a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.

- b. The location of public and private roads, driveways, sidewalks and parking facilities.
 - c. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
 - d. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
 - e. The type, size and location of all structures.
 - f. General landscape treatment.
 - g. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
 - h. The existing and proposed location of all private utilities or other easements.
 - i. Existing topography on the site with contours at no greater than two (2) foot intervals.
 - j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 - k. If the development is to be staged, a staging plan.
 - l. A plan showing how the entire development can be further subdivided in the future.
- (c) **Public Hearing.** The Common Council shall hold public hearing on the petition in the manner provided in Sections 13-1-63 and 13-1-64 for Conditional Uses.

Sec. 13-1-58 Basis for Approval of the Petition for Planned Unit Development.

- (a) **Requirements.** The Plan Commission, in making a recommendation, and the Common Council, in making a determination approving a petition for planned unit development, shall find as follows:
- (1) That the general requirements made and provided in Section 13-1-52 will be met;
 - (2) That the applicable physical requirements made and provided in Section 13-1-53 will be met;
 - (3) That the requirements as to public services and facilities made and provided in Section 13-1-54 will be met.
- (b) **Proposed Construction Schedule.** The Plan Commission and Common Council, in making their respective recommendations and determinations, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- (c) **Residential PUD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:

- (1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
 - (2) The total net residential density within the planned unit development will be compatible with the City master plan (comprehensive land use and official map), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.
 - (3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:
 - a. Planned residential developments in the residential districts shall not exceed sixteen (16) dwelling units per structure.
 - (4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 - (5) Provision has been made for adequate, continuing fire and police protection.
 - (6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - (7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- (d) **Commercial PUD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
- (1) The economic practicality of the proposed development can be justified.
 - (2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 - (3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
 - (4) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (e) **Industrial PUD, Considerations.** The Plan Commission and Common Council, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:

- (1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
 - (3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
 - (4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- (f) **Mixed Use PUD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
- (1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
 - (2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.
 - (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

Sec. 13-1-59 Determination of Disposition of the Petition.

- (a) **General.** The Common Council, following a recommendation from the Plan Commission and public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Common Council may impose.
- (b) **Approval.** The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Common Council.
 - (1) **General Approval.** The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition provided it is in sufficient detail to satisfy the Common Council as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building

sites. The approval of such general development plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.

- (2) **Detailed Approval.** Detail plans must be furnished to the Common Council for its consideration and the detailed approval by the Common Council of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Common Council.
- (c) **Changes and Additions.** Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the Common Council and if, in the opinion of the Common Council, such change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the Common Council shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Common Council shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

Article E: Conditional Uses

Sec. 13-1-60 Statement of Purpose—Conditional Uses.

The development and execution of this Article is based upon the division of the City of Anemry into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

Sec. 13-1-61 Authority of the Plan Commission and Common Council; Requirements.

- (a) The Common Council hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Common Council, upon the recommendation of the Plan Commission, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such action, and the resulting conditional use permit, when, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Common Council, upon the recommendation of the Plan Commission, shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The City shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access

restrictions, increased yards or parking requirements may be required by the Common Council, upon the recommendation of the Plan Commission, upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

Sec. 13-1-62 Initiation of Conditional Use.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

Sec. 13-1-63 Application for Conditional Use.

An application for a conditional use shall be filed on a form prescribed by the City, along with a fee as prescribed in Section 1-3-1. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter. The application shall also be accompanied by a list of the names and addresses of all persons owning land within three hundred (300) feet of the property for which the conditional use permit is requested. The Plan Commission or Common Council may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

Sec. 13-1-64 Hearing on Application.

All requests for conditional uses shall be to the Plan Commission and Common Council, or either body can, on their own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Common Council on its own motion from referring the request for conditional use to the Plan Commission. Upon receipt of the application

and statement referred to in Section 13-1-63 above, the Plan Commission shall hold a public hearing on each application for a conditional use within thirty (30) days after such request is filed at such time and place as shall be established by the Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

Sec. 13-1-65 Notice of Hearing on Application.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice under the Wisconsin Statutes in the official City newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Common Council and Plan Commission, and the owners of record as listed in the office of the City Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing. The Plan Commission shall report its action to the Common Council within forty-five (45) days after a matter has been referred to it, after which the Common Council shall take formal action.

Sec. 13-1-66 Standards—Conditional Uses.

- (a) **Standards.** No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Common Council, unless these bodies shall find all of the following conditions are present:
- (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

- (7) That the proposed use does not violate flood plain regulations governing the site.
- (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Common Council and Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Plan Commission shall also evaluate the effect of the proposed use upon:
 - (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 13-1-67 Denial of Application for Conditional Use Permit.

When an advisory recommendation of denial of a conditional use application is made by the Plan Commission or an actual denial by the Common Council, the City shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission and/or Council has used in determining that each standard was not met.

Sec. 13-1-68 Conditions and Guarantees.

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission may recommend and the Common Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in

Section 13-1-66 above. In all cases in which conditional uses are granted, the City shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Specified sewage disposal and water supply systems;
 - (15) Planting screens;
 - (16) Piers and docks;
 - (17) Increased parking; or
 - (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Common Council, upon the recommendation of the Plan Commission.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Common Council, upon the recommendation of the Plan Commission, may require the use of certain general types of exterior construction materials and/or architectural treatment.
- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome

by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

Sec. 13-1-69 Validity of Conditional Use Permit.

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Common Council may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Common Council at least thirty (30) days before the expiration of said permit.

Sec. 13-1-70 Complaints Regarding Conditional Uses.

The Common Council shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Common Council shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Common Council may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Common Council, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Common Council may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Common Council shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

Sec. 13-1-71 Bed and Breakfast Establishments.

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- (b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
- (c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

Sec. 13-1-72 Home Occupations.

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity of a rezoning into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations.** Except as provided in Subsection (c) below, home occupations are a conditional use in all Residential Districts and are subject to the requirements of the district in which the use is located, in addition to the following:
 - (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
 - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
 - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 - (5) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.
 - (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises. This shall not be interpreted to include delivery and/or pick-up services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.

- (7) No more than twenty-five percent (25%) of the gross floor area of the principal building shall be utilized by the home occupation.
 - (8) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the sale of items or products on the premises is prohibited.
 - (9) The types and number of equipment or machinery may be restricted by the Common Council.
 - (10) Activities which involve the manufacture, utilization, processing or storage of chemicals or inflammable and explosive material shall not be permitted.
 - (11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.
 - (12) No more than one (1) non-resident employee may work on the home occupation premises.
- (c) **Permitted Use Exception.**
- (1) A home occupation under this Section may be maintained in any Residential District as a permitted use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no more than one (1) person works on the premises, no customers regularly come to the house, and the business is service-oriented and not engaged in retail trade. A conditional use permit shall be first obtained for home occupations that exceed the standards of Subsection (b). Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
 - (2) Persons engaged in building trades or similar fields, using their dwelling units or residential premises as an office for business activities carried on and off the premises, may have more employees than the limitations set forth in Subsection (b)(12) of this Section if they are not employed on the premises. If such employees regularly come to the premises to take work assignments, however, a conditional use permit shall first be obtained.
- (d) **Nameplate Sign Allowed.** Only one (1) nameplate sign shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed two (2) square feet in area and shall be non-illuminated. The limitation of one (1) nameplate is intended to apply to all lots, including corner lots.
- (e) **Permitted Home Occupations.** Permitted home occupations include, but are not necessarily limited to, the following:
- (1) Artists or sculptors.
 - (2) Authors or composers.
 - (3) Home crafts such as model making, rug weaving and cabinet making.
 - (4) Office facility of a minister, rabbi, or priest.
 - (5) Office facility of an attorney, architect, professional engineer, surveyor, landscape architect, insurance agent or real estate agent.
 - (6) Private tutoring limited to three (3) pupils at any one time.
 - (7) Musical instruction limited to two (2) pupils at a time.
 - (8) Dressmaking.

- (f) **Home Occupations Not Permitted.** The following uses, by the nature of the investment or extent of operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, home occupations not permitted include, but are not necessarily limited to, the following:
- (1) Barber shops and beauty parlors.
 - (2) Antique shops.
 - (3) Stables and kennels.
 - (4) Medical offices, including, but not necessarily limited to, physicians, surgeons, dentists, chiropractors, or optometrists for the general practice of the profession, except for consultation or emergency treatment.
 - (5) Repair or paint shops for motor vehicles, including motorcycles, ATVs, recreational vehicles, farm or lawn implements or other small motors.
 - (6) Restaurants and bakeries.
- (g) **Unlisted Home Occupations.** Any proposed home occupation that is neither specifically permitted by Subsection (b) or (e) nor specifically prohibited by Subsection (f) shall be considered a conditional use and be granted or denied by the Common Council upon consideration of those standards contained in Subsection (b) and Section 13-1-66 and in accordance with the procedures as required in Article E of this Chapter.

Sec. 13-1-73 Resource Extraction — Conditional Use.

- (a) **Intent.** It is the intent of this Section to permit resource extraction by conditioned use permit in the vacant areas of the City as a temporary or transitional use of land with assurances that later re-use for other permissible uses and structures is possible.
- (b) **Location.** Location shall be appropriate to existing development and development which may reasonably be expected within the time period specified herein. The site shall be so located as to make it unnecessary to conduct trucking operations on local or collector streets through established residential development, and unnecessary for special improvements or maintenance of public facilities at public expense.
- (c) **Area.** The tract shall consist of a minimum of five (5) acres with dimensions sufficient to adequately accommodate the proposed use with minimum adverse effects on adjacent land.
- (d) **Character of Use.** Permitted uses of operations shall include the removal for sale, processing, or use of topsoil, fill, sand, gravel, rock or any mineral. No material shall be brought from off the site for sale, processing or similar purposes. No processing or excavating shall be permitted within two hundred (200) feet of any exterior boundary line of the tract.
- (e) **Plan for Development and Plan for Rehabilitation.** In addition to applicable site plan requirements, and any other studies or reports which may be required, each application shall be accompanied by a plan for development and a plan for rehabilitation. The plan for

development shall show the proposed operation as planned and staged over a four (4) year period in relation to the entire tract. The plan for development shall include the following information: present topography, drainage and soils; the topographic, drainage, and other features to be altered in connection with the operation; the feasibility of the proposed operation without hazards or damage to other properties by reason of flooding, rises in groundwater levels, erosion, excessive slopes, cuts and fills, or other reasons; the methodology of the proposed operation; where and how traffic to and from the development is to be handled; and where equipment will be operating and stored. The plan for rehabilitation shall show how the entire tract is to be rehabilitated and left for reuse and shall include the following information: feasible circulation patterns in and around the tract; treatment of exposed soil or subsoil and the measures to be taken to replace topsoil; fill methods, materials, and depths; topography and treatment of slopes to prevent erosion; and delineation of drainageways. Remaining intermittent lakes, or marshes shall be prohibited except where such conditions preceded development.

- (f) **Time Limitations.** No conditional use permit shall be issued for a period exceeding six (6) years consisting of not more than four (4) years for the development or exploitation phase and not more than two (2) years for the rehabilitation phase. Upon expiration of the four (4) year development phase, the applicant may request extensions of this phase on an annual basis thereafter, unless changing conditions indicate the extension will be detrimental to the public interest. Any extension shall require the submission of a development plan and re-use plan and may involve additional conditions if the operation is expanded or enlarged from that previously proposed. If such an extension is denied, the applicant shall complete the rehabilitation phase as proposed, within the two (2) year time period specified.
- (g) **Financial Capability.** To insure completion of the rehabilitation phase as proposed and within the two (2) year time period specified, each applicant shall submit a performance bond sufficient in amount to cover the rehabilitation expense relative to the proposed development or any extensions thereto.

Sec. 13-1-74 through Sec. 13-1-79 Reserved for Future Use.

Article F: Nonconforming Uses, Structures and Lots

Sec. 13-1-80 Existing Nonconforming Uses and Structures.

- (a) The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.
- (b) If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this Chapter; provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted; provided all other regulations governing the new use are complied with.
- (c) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses. Normal maintenance is permitted. Any extension or enlargement of a nonconforming structure is subject to review and approval of the Plan Commission. This provision shall not be interpreted to disallow the extension or enlargement of a structure in respect to those dimensions that are in conformance with this Chapter so long as additional nonconformities are not created thereby.

Sec. 13-1-81 Abolishment or Replacement.

- (a) **Termination.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.
- (b) **Building Destroyed by Fire.** Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than fifty percent (50%) of its assessed value, the same may be rebuilt; but where such a building is destroyed to the extent of more than fifty percent (50%) of its assessed value, a permit may be granted for its reconstruction within twelve (12) months from the date of such fire or other calamity, except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

Sec. 13-1-82 Existing Nonconforming Structures.

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

Sec. 13-1-83 Changes and Substitutions.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Zoning Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Zoning Appeals.

Sec. 13-1-84 through Sec. 13-1-89 Reserved for Future Use.

Article G: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-90 Traffic Visibility.

- (a) On a corner lot in all zoning districts in the City of Amery, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of three (3) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty (20) feet from the point of intersection. Fences shall comply with the corner setback requirements of Section 13-1-142(c) and (d).
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

Sec. 13-1-91 Loading Requirements.

- (a) **Loading Space Requirements.** On every lot on which a new business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Use	Floor Area (sq. ft.)	Loading Space
Retail, wholesale	2,000 - 10,000	1
warehouse, service	10,000 - 20,000	2
manufacturing, and	20,000 - 40,000	3
industrial establishments	40,000 - 60,000	4
	Each additional 50,000	1
Hotels, offices	5,000 - 10,000	1
hospitals, places of	10,000 - 50,000	2
public assembly	50,000 - 100,000	3
	Each additional 25,000	1
Funeral homes	2,500 - 4,000	1
	4,000 - 6,000	2
	Each additional 10,000	1

- (b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.
- (d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.
- (e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than six (6) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- (f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities.
- (g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (h) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
 - (1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
 - (3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
 - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

Sec. 13-1-92 Parking Requirements.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Common Council. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, there

shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street shall be provided for each parking space.
- (b) **Location.**
 - (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line.
 - (3) Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Section 13-1-93.
- (c) **Use Restrictions.**
 - (1) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.
 - (2) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.
 - (3) **Street Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- (d) **Number of Stalls.** Number of parking stalls required for newly created parking lots are shown in the following table:

Use	Minimum Parking Required
Dwellings: Single-family, two-family and mobile homes	2 stalls for each dwelling unit
Dwellings: Multi-family	2 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Common Council may order them installed
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees

Sororities, dormitories, rooming and boarding houses	1 stall for each bed
Retirement homes, orphanages	1 stall per 2,000 feet of principal floor area
Rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	5 stalls for each doctor
Churches, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats
Secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more
Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 150 square feet
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 2 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Financial institutions, business, government and professional offices, retail and service establishments	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages—see above.)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

- (e) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (f) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (g) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (h) **Off-Lot Parking.**
 - (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the City Attorney.
 - (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
 - (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
 - (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

Sec. 13-1-93 Driveways.

All driveways installed, altered, changed, replaced or extended after the effective date of this Chapter shall meet the design requirements of Sections 6-3-1 and 6-3-2 of the City of Amery Code of Ordinances.

Sec. 13-1-94 Highway Access.

- (a) **Highway Access.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission

of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.

- (b) **Access Barriers.** Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (c) **Temporary Access.** Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

Sec. 13-1-95 Storage and Parking of Recreational Vehicles.

- (a) **Definitions — Recreational Vehicles.** For purposes of this Section, the following definitions shall apply:
 - (1) **Recreational Vehicle.** Recreational vehicle means any of the following:
 - a. **Travel trailer.** A vehicular, portable structure built on a chassis and on wheels; that is, between ten (10) and thirty-six (36) feet long, including the hitch, and eight (8) feet or less in width; designed to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called fifth-wheel units.
 - b. **Pick-up Coach.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
 - c. **Motor Home.** A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.
 - d. **Camping Trailer.** A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
 - e. **Chassis Mounts, Motor Homes and Mini-Motor Homes.** Recreational structures constructed integrally with a truck or motor van chassis and incapable of being separated therefrom.
 - f. **Converted and Chopped Van.** Recreational structures which are created by altering or changing an existing automobile or van to make it a recreational vehicle.
 - (2) **Boat or Snowmobile Trailer.** A vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this Section, is termed an unmounted boat or snowmobile.

- (3) **Boat.** Every description of watercraft used or capable of being used as a means of transportation on water.
- (4) **Yard, Front.** That part of a lot between the front lot line and the front(s) of the principal building on the lot, and extended to both side lot lines.
- (5) **Yard, Rear.** That part of a lot between the rear lot line and the back(s) of the principal building on the lot, and extended to both side lot lines.
- (6) **Yard, Side.** That part of a lot not surrounded by building and not in the front or rear yard.
- (b) **Permitted Parking or Storage of Recreational Vehicles.** In all residential and commercial districts provided for in this Zoning Code, it is permissible to park and store a recreational vehicle or boat and boat trailer on private property in the following manner:
 - (1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
 - (2) Parking is permitted outside in the side yard provided it is not nearer than five (5) feet to the lot line.
 - (3) Parking is permitted outside on a hard-surfaced or well-drained gravel driveway, provided:
 - a. Space is not available in the rear yard or side yard, or there is no reasonable access to either the side yard or rear yard.
 - b. A corner lot is always deemed to have reasonable access to the rear yard.
 - c. A fence is not necessarily deemed to prevent reasonable access.
 - d. Inside parking is not possible.
 - e. The unit is parked perpendicular to the front curb.
 - (4) The body of the recreational vehicle or boat must be at least fifteen (15) feet from the face of any curb.
 - (5) No part of the unit may extend over the public sidewalk or public right-of-way.
 - (6) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling purposes, except for overnight sleeping for a maximum of ten (10) days in any one calendar year. Cooking is not permitted at any time.
 - b. Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
 - (7) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
 - (8) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.

State Law Reference: Sec. 30.50, Wis. Stats., and HSS 177 and 178, Wis. Adm. Code.

Sec. 13-1-96 Storage of Tractors and Road Machinery.

No person, firm or corporation shall park, keep or maintain on properties zoned as residential or multiple residential dwellings, the following types of vehicles: Semi-tractors and/or trailers, landscaping equipment, dump trucks, auto wreckers and road machinery. Said vehicles may not be kept or parked on said premises whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

Sec. 13-1-97 through Sec. 13-1-99 Reserved for Future Use.

Article H: Signs, Canopies, Awnings and Billboards

Sec. 13-1-100 Purpose of Sign, Canopy and Awning Regulations.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every tenant and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the City of Amery; painting, posting and general maintenance are excepted.

Sec. 13-1-101 Signs, Canopies, Awnings and Billboards— Definitions.

- (a) The following definitions are used in this Article (Note: Not all types of signs defined herein are permitted under this Article):
- (1) **Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, owner, landlord/tenant, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.
 - (2) **Animated Sign.** Any sign or part of a sign which changes physical position by movement or rotation, or gives the illusion of such change of physical position.
 - (3) **Area of Copy.** The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of an advertising message, announcement, or decoration.
 - (4) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface.
 - (5) **Awning.** A movable hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. For purposes of this Article, an "awning sign" is any awning. Decorative awnings without lettering or imagery are not considered signs.
 - (6) **Banner.** A banner sign is generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events or advertising has been placed, mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

- (7) **Billboard.** A flat surface, as of a panel, wall or fence on which signs are posted advertising goods, products, facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (8) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- (9) **Building Front.** The horizontal, linear dimension of that side of a building which faces a street, a parking area, a mall, or other circulation area open to the general public; and having either a main window display of the enterprise or a public entrance to the building. (In industrial districts a building side with an entrance open to industrial employees also shall qualify as a building front.)
- (10) **Bulletin Board.** A sign used for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.
- (11) **Canopy.** Any structure of canvas, other fabric, plastic, metal or wood or other material, which is permanently attached to any exterior building wall in any manner, intended to shield any wall, window, door, sidewalk or roadway from sun, rain or any other element, and which is not retractable such as an awning.
- (12) **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy for the purpose of this Article, canopy signs shall be controlled by the rules governing projecting signs.
- (13) **Changeable Message Sign.** A sign such as a manual, electronic or electric controlled time and temperature sign message center, or reader board, whether electronic or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.
- (14) **Copy Area.** The geometric area in square feet that encloses the actual copy message of the sign.
- (15) **Directional Sign.** Any sign that directs the movement or placement of pedestrian or vehicular traffic on a lot and does not contain any advertising copy.
- (16) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (17) **Directory Sign.** Any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.
- (18) **Display Surface or Face.** The display surface is the area made available by the sign structure for the purpose of displaying the advertising message, or which is intended to draw attention to the advertising message.
- (19) **Distance of Sign Projection.** The distance from the exterior wall surface of the building to the outer extremity of a sign attached to a building.

- (20) **Electric Sign.** Any sign containing internal electrical wiring which is attached, or intended to be attached, to an electrical energy source.
- (21) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
- (22) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (23) **Flat Sign/Flush Mounted.** See definition for "Wall Signs."
- (24) **Freestanding (Ground and/or Pylon Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- (25) **Grade.** The elevation or level of the sidewalk closest to the sign to which reference is made. If no sidewalk is present, then grade shall be defined as the elevation or level of the street at the same point, measured at the street's centerline.
- (26) **Gross Area.** The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area of Copy apply.
- (27) **Ground Sign.** A sign supported by poles, uprights or braces extending from the ground or an object on the ground but not attached to any part of any building. Also known as a "freestanding sign."
- (28) **Height of Sign.** The vertical distance measured from the mean centerline street grade to the highest point of the sign. If sign and sidewalk are not in essentially parallel planes, then measured vertically at the horizontal midpoint of the sign.
- (29) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- (30) **Illuminated Awning.** An internally illuminated awning fabricated from a translucent material, or one which is backlighted as to appear to illuminate the awning sign. An illuminated awning may be used for an awning sign when other requirements are met.
- (31) **Illuminated Canopy.** An internally illuminated canopy, or one which is backlighted as to appear to illuminate the canopy sign.
- (32) **Illuminated Sign.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- (33) **Indirectly Illuminated Sign.** A sign that is illuminated from a source outside of the actual sign.
- (34) **Joint Identification Sign.** A sign which serves a common or collective identification for two (2) or more businesses or industrial uses on the same lot. Such sign may contain a directory to said uses as an integral part thereof.

- (35) **Legal Non-Conforming Sign.** Any sign which was already in existence and displayed on the effective date of this Article, which met code requirements when originally installed, but not meeting the requirements and limitations of this Article.
- (36) **Marquee.** A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
- (37) **Marquee Sign.** Any sign attached to or constructed in a marquee.
- (38) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
- (39) **Off-Premise Third Party Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
- (40) **On-Premise Sign.** A sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.
- (41) **Painted Wall Signs.** Signs painted directly onto a building wall.
- (42) **Political Sign.** Any sign displaying a candidate for an election, or a current referendum's or election's subject matter.
- (43) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground or a building which is designed to be easily moved from one location to another.
- (44) **Projecting Sign.** A sign other than a wall sign which projects from a wall or roof and is supported by a wall or roof of a building. (See "Wall Sign".)
- (45) **Pylon Sign.** Any freestanding sign mounted on a pole or other pylon.
- (46) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
- (47) **Roof Line.** The highest point on any building where an exterior wall encloses usable floor area including roof area provided for housing mechanical equipment.
- (48) **Roof Sign.** A sign erected upon or above the roof line or parapet of the building or structure.
- (49) **Sandwich Sign.** A hinged or unhinged A-frame portable sign which is generally temporary in nature and placed near the roadway.
- (50) **Sign.** Any object or device or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images.
- (51) **Sign Contractor.** Any person, partnership or corporation engaged in whole or in part, in the business of erection or maintenance of signs, excluding the business which the sign advertises.
- (52) **Sign Inspector.** That person charged with the responsibility to see that signage in the community is installed and maintained in compliance with this Article. In the City of Amery, the Sign Inspector will be the Zoning Administrator.

- (53) **Sign Permit.** A building permit issued for the erection, construction, enlargement, alteration, moving, improvement, removal, conversion or demolition of any sign, issued pursuant to this Article and the Building Code of the City of Amery.
- (54) **Sign Structure.** Any supports, uprights, braces and framework of the sign which does not include any portion of the sign message.
- (55) **Subdivision Identification Sign.** A sign identifying a subdivision wherein only the name of the subdivision is specified.
- (56) **Swinging Sign.** A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole to limit or prevent free swinging.
- (57) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed thirty (30) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed thirty-two (32) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Article, a portable sign is not a temporary sign.
- (58) **Time and Temperature Sign.** An electrically controlled sign displaying time and temperature for public service information and may be incorporated into a business identification sign.
- (59) **Third Party Sign.** Any sign which advertises or directs attention to a business, commodity, service or activity conducted, sold or offered elsewhere than on the lot on which said sign is located.
- (60) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than sixteen (16) inches from such wall.
- (61) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way. For purposes of this Article a window sign shall not include any sign permanently attached in the window or directly painted on the glass.

Sec. 13-1-102 Required Permits for Signs, Canopies, Awnings and Billboards.

(a) Permit Required.

- (1) Except those specified in Section 13-1-103, no sign, billboard, awning or canopy, as defined in this Article, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article.
- (2) Signs also shall meet all other structural requirements of other applicable codes and ordinances of the City of Amery.
- (3) Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.

- (4) The required sign permit fee shall accompany each sign application and shall be required for all new signs and any modifications of any existing sign face or sign structure.
- (5) Any sign permit granted hereunder may not be assigned or transferred to any other sign or modified sign face or sign structure.
- (b) **Application for a Permit.** Any person, firm, corporation or organization desiring to place, erect, alter or relocate a sign, as herein defined, except an exempt sign, shall make application to the Zoning Administrator and shall provide in writing the following information:
 - (1) The name, address and telephone number of the applicant.
 - (2) The name and address of the owner or owners of the premises upon which the sign is to be attached or erected, including written proof of consent from the property owner upon which the sign(s) are to be erected and maintained.
 - (3) The street number and street name or tax parcel number of the land upon which the sign is to be attached or erected.
 - (4) A legible scaled drawing with description and dimensions of the sign(s) to be erected or maintained under that permit and the sign's proposed location on the building or site.
 - (5) The basic materials to be used in the construction of the sign.
 - (6) The name, address and telephone number of the owner of the sign if he or she is neither the applicant nor the owner of the premises on which the sign is to be attached or erected.
 - (7) A description of all electrical equipment if the sign is to be lighted or illuminated.
 - (8) Proof of payment of the appropriate sign permit fee, when required.
 - (9) Any other item of information that may be reasonably required by the Zoning Administrator or other City officials for the purpose of application evaluation.
- (c) **Basis for Granting.** In reviewing a sign permit application, the Zoning Administrator may consider the following factors in deciding whether or not to grant the issuance of a sign permit [see also Subsection (e) below]:
 - (1) Whether the sign is designed, installed, and maintained to promote the surrounding environment desired by the general public, pursuant to the objectives of proper design and zoning criteria.
 - (2) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.
 - (3) Whether the sign is legible, readable, and visible in the circumstances in which it is to be used.
 - (4) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
 - (5) Whether the sign is in compliance with the provisions of this Article.
 - (6) Whether the sign is in compliance with the provisions of the City of Amery Code of Ordinances relating to traffic safety, traffic visibility setbacks, historic preservation and zoning.

(d) **Permit Issuance/Denial.**

- (1) All sign permit applications shall be reviewed by the Zoning Administrator who shall deny or grant such applications within ten (10) business days of receipt of the complete application and payment of fee. If the sign meets the requirements of this Article and all other ordinances of the City, the Zoning Administrator shall issue a permit therefor.
- (2) If the sign permit is denied by the Zoning Administrator within five (5) days, a written notice of the denial shall be provided to the applicant, together with a brief written statement of the reasons for the denial.
- (3) No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

(e) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator who may inspect the premises to inspect whether the sign complies with the regulations of this Article.

(f) **Appeal of Denial of Sign Permit.**

- (1) Any decision of the Zoning Administrator under this Article may be appealed to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of permit denial.
- (2) A majority vote of the Board of Appeals is required to modify the earlier determination of the Zoning Administrator.

(g) **Permit Revocation; Appeal.**

- (1) A sign permit may be revoked by the Zoning Administrator in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.
- (2) The holder of a revoked sign permit may appeal such revocation action to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Zoning Administrator within thirty (30) days of the date of the original permit revocation.
- (3) Upon any permit revocation or failure to prevail before the Board of Appeals, the sign(s) subject to such revoked permits shall be removed by the licensee within thirty (30) days of such revocation.
- (4) Revocation shall not give cause to a right of total or partial reimbursement of license fees paid.

(h) **Standards for Board of Appeals in Reviewing Appeals.** The Board of Appeals may authorize upon appeal, in specific cases, issuance of a sign permit when such decision will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Article will result in unnecessary hardship and so that the spirit of this Article shall be observed and substantial justice done. No Board of Appeals's appellate decision shall have the effect of allowing in any district uses prohibited in that district or permit standards significantly lower than those required by state law or this Article.

- (i) **Signs in Historic Districts.** In addition to these sign regulations, all signs within any historic district shall be subject to the provisions of the City's Historic Preservation Code.
- (j) **Permit Validity.** Any sign permit issued by the Zoning Administrator shall be null and void and automatically revoked in the event that construction, installation, or manufacture of the sign has not been commenced within one hundred eighty (180) days from the date of the issuance of such permit. If work authorized by such permit is suspended or abandoned for a period of ninety (90) days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.

Cross-Reference: Section 13-1-113, Variances.

Sec. 13-1-103 Signs Not Requiring a Permit.

The following signs may be erected and maintained in all zoning districts, except where noted, without a permit and without being deducted from gross sign surface area permitted.

- (a) **Bulletin Boards.** One bulletin board per street frontage, and not over thirty-two (32) square feet in area, for public, charitable or religious institutions located on site.
- (b) **Government Signs.** Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of his/her public duty. Included within this definition are off-premise institutional signs.
- (c) **Interior Signs.** Signs located within the interior of any building or structure which are not visible from the public right-of-way.
- (d) **Memorial Signs.** Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface, or inlaid so as to be part of the building.
- (e) **Occupant Signs.** Signs limited in content to name of occupant, address of premises, and signs of danger. Occupant signs shall be a maximum of one (1) per street front and no more than three (3) square feet in sign area.
- (f) **Governmental Notices.** Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic or for other regulatory purposes or to identify streets or to warn of danger.
- (g) **Temporary Construction Safety Signs.** Temporary or permanent signs erected by public utility companies or construction companies to warn of dangerous or hazardous conditions.
- (h) **Traffic and Service Signs on Private Premises.** Traffic and parking signs and devices privately-owned and on private premises, and containing messages such as "exit only", "restricted for _____", and the like, the sole purpose of which is to direct and control traffic on the premises and which does not exceed ten (10) feet in height nor contain more

than twelve (12) square feet per face. Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without permit under this exception.

- (i) **Signs Required by Law.** Signs required by law, statute or ordinance, constructed and maintained according to the law, statute or ordinance under which the sign was erected.
- (j) **Real Estate Signs.** One sign per street frontage may be placed on the offered property and shall not be more than eight (8) square feet in size for residential property and not more than thirty-two (32) square feet in area for non-residential property. The sign may only advertise the sale, rental or lease of the premises upon which it is located and contain the name and/or logo of the real estate company, or individuals and their respective addresses and telephone numbers, posting the sign. Such signs shall be removed within thirty (30) days after sale, rental or lease of the property.
- (k) **Signs in Display Windows.** Signs in the display window of a business which relate to services or products offered therein. This display sign exception is only permitted for properties in the following zoning districts: C-1 and C-2 Districts. The window sign must direct attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises. Window signs shall be placed only on the inside of commercial buildings and shall not exceed thirty-five percent (35%) of the glass area of the pane upon which the sign is displayed.
- (l) **On-Premise Symbols or Insignia.** Religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historical agencies.
- (m) **On-Premise Temporary and Portable Signs in Residential Districts.** Temporary or portable signs under twenty (20) square feet for the purpose of an on-site open house, model home demonstration, special event such as a birthday or anniversary, and for five (5) days thereafter, but may not exceed a total period of thirty (30) days per twelve (12) month period.
- (n) **Civic Event Temporary Signs.** Temporary off-premises signs not exceeding four (4) square feet in residential or public lands districts, or thirty-two (32) square feet in the C-1, C-2, and I-1 Districts, pertaining to drives or events of civic, philanthropic, educational, religious, or non-profit organizations, provided such signs are posted not more than thirty (30) days before said event and removed within seven (7) days after the event.
- (o) **Political Signs.** Political message, public election or referenda signs during an election campaign, as defined in Sec. 12.04(1), Wis. Stats., limited to one (1) per premises per candidate or referenda question. Political signs may be posted sixty (60) days before an election and must be removed within seven (7) days after said election. Said sign shall be a maximum of sixteen (16) square feet.
- (p) **Rummage/Garage Sale Signs.** Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours

per sale. Rummage or garage sale signs may only be located on the day of the garage sale within street right-of-way lines between the private property line and the pavement edge with the permission of the adjoining private property owner or renter in a location which does not create a visibility or traffic hazard (as determined by the Zoning Administrator or a law enforcement officer).

- (q) **Open/Close Signs.** Illuminated and non-illuminated signs not exceeding ten (10) square feet in area announcing that a business is open or closed.

Séc. 13-1-104 Residential Signs Requiring a Permit.

In addition to those permitted signs not requiring a permit pursuant to Section 13-1-103, the following nonflashing, nonilluminated signs (except as otherwise provided) are permitted under the conditions specified in all residential and conservancy districts, and planned unit developments (residential) established by the City's Zoning Code.

- (a) **Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts.** Subject to the following:

- (1) **Content.** The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, of lots for sale, or for the identification of other nonresidential uses under construction.
- (2) **Area, Number and Setback.** Such signs shall not exceed two (2) in number for each subdivision nor fifty (50) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.
- (3) **Height.** No sign shall project higher than eight (8) feet above curb level.
- (4) **Time Limitations.** The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit or when the parcels being advertised are sold, whichever occurs first.

- (b) **Permanent Subdivision Identification Signs.** Subject to the following:

- (1) **Content.** The signs shall bear only the name of the subdivision or development.
- (2) **Area and Number.** There shall be not more than two (2) signs located at each entrance to a subdivision. No sign shall exceed thirty-two (32) square feet in area. Such identification signs shall only be erected after review and approval by the Zoning Administrator.
- (3) **Height.** No sign shall project higher than twelve (12) feet above curb level.
- (4) **Location.** The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign.

- (c) **Nonflashing, Illuminated Church Bulletins.** Subject to the following:

- (1) **Area and Number.** There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall

exceed thirty-two (32) square feet in area nor be closer than five (5) feet from any lot line.

- (2) **Projection.** No sign shall project beyond the property line into the public right-of-way.
- (3) **Height.** No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.
- (d) **Bed and Breakfast Signs.** Subject to the following:
 - (1) **Content.** The sign shall bear only the name, address and other pertinent information regarding the bed and breakfast establishment.
 - (2) **Area and Number.** There shall not be more than one (1) sign per lot street frontage. No sign shall exceed sixteen (16) square feet in area. Such sign shall have a ten (10) feet setback from a public right-of-way or lot line.
 - (3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
 - (4) **Height.** No sign shall project higher than six (6) feet above the street level.
- (e) **Home Occupation/Professional Home Office.** Subject to the following:
 - (1) **Content.** The sign shall bear only the name, address, hours and other pertinent information regarding the on-site home occupation or professional home office maintained in compliance with the City's Zoning Code.
 - (2) **Area and Number.** There shall not be more than one (1) sign per lot. No sign shall exceed six (6) square feet in area. Such sign shall have a ten (10) foot setback from a public right-of-way or lot line.
 - (3) **Projection.** No sign shall project beyond the property line into the public right-of-way.
 - (4) **Height.** No sign shall project higher than six (6) feet above the street level.

Sec. 13-1-105 Commercial and Industrial Signs Requiring a Permit.

- (a) **Permitted Signs.** The following signs shall require a permit to be issued by the City of Amery. Signs may be permitted in specific zoning categories, subject to the following restrictions.
- (b) **Height and Setback Requirements.** In commercial or industrial zoning districts where setbacks are required for building construction, no part of any sign shall extend over the property line. In zoning districts where no front yard setbacks are required, a sign must be attached to the building and shall project no more than four (4) feet over the abutting public sidewalk or established street grade.
- (c) **Number of Signs Permitted.**
 - (1) **Total Number.** No more than two (2) signs of any type shall be located at any business, except that premises occupied by a shopping center may, as an alternative,

have one (1) detached directory sign plus one (1) wall sign for each place of business located in said shopping center, provided that the aggregate total area of all signs located on any premises so occupied shall not exceed the total area permitted for one (1) detached sign and one (1) flat sign as set forth in this Article.

- (2) **Corner Lots.** Businesses with streets fronting both sides shall be allowed two (2) types of signs for each street frontage; no street frontage buildings shall be allowed two (2) of the same type of sign for that particular business.

(d) **Types of Signs, Maximum Size, Number and Location.**

- (1) **Directory Signs.** Directory signs advertising a business or activity conducted, an area of interest, or a service available at a specific location are permitted in the C-1, C-2, I-1 and I-2 Districts when a part of a City-sponsored directory sign program. Such signs shall be not more than twenty-four (24) square feet in gross area. There shall not be more than two (2) such signs relating to any one (1) such use in the approaching direction along any one (1) highway. Such signs may be placed at the right-of-way line of the highway. A larger number of signs may be permitted by the Plan Commission, upon referral and recommendation of the Zoning Administrator, if the Plan Commission shall find it necessary for directing the traveling public. The Plan Commission shall designate a uniform sign design for such directory signs.
- (2) **Wall Signs.** Wall signs are permitted in the C-1, C-2, I-1 and I-2 Districts. Wall signs placed against the exterior walls of buildings shall not extend more than sixteen (16) inches outside of a building's wall surface, nor extend above or beyond the wall itself. Total sign area (including multiple business/tenant signs on a single property) shall not exceed one (1) square foot for each lineal foot of the building parallel with the main street frontage. Rear or side entrance signs are subject to the same size restrictions as that found at the principal (front/main) entrance to the building. Signs on other building facades (i.e. non-entrance side facades) are limited to one-half (1/2) square foot per lineal foot of such facade. All signs attached or affixed to a building shall not exceed twenty (20) feet in height above the mean centerline street grade.
- (3) **Projecting Signs.** Projecting signs fastened to, suspended from, or supported by a building or structure, shall not exceed in gross area for any one (1) premise: forty (40) square feet on each of two (2) faces in an Industrial District. With the exception of existing marquee signs of historic interest, permits shall not be issued for new projecting signs in the C-1 or C-2 Districts. Such signs shall not extend into any public right-of-way; shall not exceed a height of twenty (20) feet above the mean centerline street grade; and shall not be less than ten (10) feet above a pedestrian walk nor less than fifteen (15) feet above an alley or driveway.
- (4) **Ground Signs.** Ground signs and their supporting structure shall comply with all setback requirements of the District in which they are located, except that ground signs in an I-1 or I-2 District may be located up to a public right-of-way. Ground signs shall not exceed in gross area for any one (1) premise: forty (40) square feet

on each side in a C-1 or C-2 District; or one hundred sixty (160) square feet on each side in an I-1 or I-2 Industrial District. Such signs shall not exceed at their highest point twenty (20) feet in height above mean centerline street grade. One (1) ground sign is permitted on a street frontage provided there is no pylon sign on that side. Any ground sign in an I-1 or I-2 Industrial District shall have a minimum landscaped area of sixteen (16) square feet around the base of the ground sign.

- (5) **Pylon Signs.** Pylon signs shall not exceed thirty (30) feet in height in an I-1 or I-2 Industrial District. Pylon signs shall not be placed in the C-1 or C-2 Districts. Height is measured above the mean centerline of street grade. The sign shall be completely within the property upon which it is located. One (1) pylon sign per street frontage is permitted. Size is limited to one hundred (100) square feet for one (1) side, or two hundred (200) feet for all sides. When there exists a property zoned in an I-1 or I-2 District with continuous road/highway frontage in excess of three hundred (300) feet, the size is limited to two hundred (200) square feet per side or four hundred (400) square feet for all sides. Any pylon sign shall have a minimum landscaped area of sixteen (16) square feet around the base of the pole.
- (6) **Off-Premise Third Party Signs.** Off-premise third party signs are prohibited except that a business in an I-1 or I-2 District may have an off-premise pylon or ground sign shared with a physically adjacent business on the adjacent business' property. Such a shared sign shall comply with the dimensional requirements of Subsections (d)(4) and (5) above, except that the secondary sign's dimensions shall not exceed fifty percent (50%) of the primary sign's maximum allowable dimensions. Such signs shall share the same pylon or ground sign mountings.
- (7) **Shopping Center/Industrial Park Directory Signs.** In a shopping center or industrial park, one (1) free-standing identification/directory sign for each street upon which the development fronts may be permitted showing the name of said center or park and represented business or industries. Directory signs for shopping centers or industrial parks are permitted as an alternative to ground signs or projecting signs for individual stores in the shopping center or business in the industrial park. The top of a directory sign shall not exceed thirty-two (32) feet in height above the mean centerline street grade and the bottom of the sign shall not be less than ten (10) feet above the sidewalk and not more than sixteen (16) feet above a driveway or alley. Double supporting pylons shall not be greater than ten (10) feet apart. That portion of the directory sign which advertises the shopping center or industrial park name shall not exceed one hundred (100) square feet for one (1) side and a total of two hundred (200) square feet for all sides. That portion of the directory sign which advertises the individual store/business name shall not exceed sixteen (16) square feet for one (1) side and a total of thirty-two (32) square feet for all sides. Directory signs shall meet all yard requirements for the zoning district in which they are located.

Cross-Reference: Section 14-1-23(k).

Sec. 13-1-106 Special Sign Requirements.

(a) **Electronic Message Unit Signs.**

- (1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
- (2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.
- (3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.

(b) **Search Lights.** The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five (5) days in any six (6) month period.

(c) **Sandwich Signs.** In instances where the property owner or business tenant in a C-1 or C-2 District wishes to erect a sandwich board, there is a limit of one (1) sandwich board per business tenant and such sign shall not exceed four (4) feet in height and eight (8) square feet per side display area. Sandwich signs may be placed only after issuance of a sign permit and shall be placed in a manner so as not to present a hazard.

(d) **On-Site Banner Signs.** On-site banner signs, whether permanent or temporary, are not permitted.

(e) **Over-the-Street Banners.** Temporary over-the-street banners are permitted upon a permit from the Zoning Administrator.

(f) **Neon Signs.** Exterior neon or gas illumination signs require a sign permit.

Sec. 13-1-107 Awnings and Canopies.

(a) **Permitted Awnings.** No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

- (1) **Support.** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.
- (2) **Height.** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the public sidewalk or public thoroughfare.
- (3) **Awning Extension from Curb Line.** No entrance awning shall extend beyond a point eight (8) feet into the right-of-way.
- (4) **Advertising.** No advertising shall be placed on any awning, except that the name and logo of the establishment within the building to which the awning is attached may be

painted or otherwise permanently placed in a space not exceeding eight (8) inches in height on the front and side edges.

- (b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
- (1) **Support.** The structural support of all canopies shall be properly designed and be approved by the Zoning Administrator as in compliance with the Building Code of the City. All frames and supports shall be designed to withstand a wind pressure as provided in this Article. All canopies and awnings shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and/or awning and the sidewalk or ground below.
 - (2) **Height Above Sidewalk.** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.
 - (3) **Canopy Extension from Curb Line.** No entrance canopy shall extend beyond a point eight (8) feet from the face of a wall or building.
 - (4) **Advertising.** No advertising shall be placed on any canopy, except that the name and logo of the establishment may be painted or placed in a space not exceeding twenty-four (24) inches in average height on the front and side edges. Such name may be so painted or placed irrespective of any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than eight (8) inches high on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

Sec. 13-1-108 Prohibited Features.

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with freestanding signs are encouraged and shall not be counted as allowable sign area. The base of signs shall be landscaped so as to conceal footings, mountings, brackets, and related structural elements.

Sec. 13-1-109 Prohibited or Restricted Signs.

- (a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent

free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.

- (b) **Moving or Flashing Signs.** No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights, bare reflecting-type bulbs, or utilizes a spot or beacon light to illuminate a sign, except those giving public service information such as time, date, temperature, weather or similar information. Public information display signs require approval by the Zoning Administrator. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- (c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Article.
- (d) **Billboards.** No new billboards shall be permitted in the City of Amery after the effective date of this Article. Billboards located upon property annexed to the City and existing as of the effective date of this Article are permitted to remain unless the owner structurally alters such billboard in any manner. If damaged, or if structural alteration is made/required, such billboard shall be permanently removed. However, any billboards existing as of the effective date of this Article must be removed permanently within three (3) years following annexation, and with such removal being agreed to in writing by the owner/lessor/lessee thereof in writing prior to such annexation.
- (e) **Painted Wall and Other Prohibited Signs.** Painted wall signs are signs which are painted directly onto the surface of the building; painted wall signs are prohibited in the City of Amery. No person shall paste or otherwise fasten any paper or other material, paint, stencil or write any number, sign, name or any disfiguring mark within any street right-of-way, on any sidewalk, curb, gutter, street, post, fire hydrant, pole or tree, any other sign, building, fence or other structure, nor shall any of said objects be defaced in any manner. No signage shall be used except those types specifically permitted by this Article.
- (f) **Immoral Sign Subjects.** Signs which bear or contain statements, words, pictures, or symbols of obscene, pornographic or immoral subjects are prohibited.
- (g) **Roof Signs.** New roof signs are prohibited in the City of Amery.
- (h) **Swinging Signs.** Swinging signs are prohibited.
- (i) **Third-Party Signs.** Third-party signs and billboards are prohibited, except as provided in Section 13-1-105(d)(6).
- (j) **Advertising Vehicle Sign Configuration.** No persons shall park any vehicle or trailer on a public right-of-way or on private properties so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purposes of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premise. Business vehicles containing typical business signage and which are actively used on a daily basis for business purposes, are exempt from this prohibition.

- (k) **Floodlighted and Illuminated Signs.** Signs may be floodlighted or illuminated, subject to the following restrictions:
- (1) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operations of a motor vehicle, are prohibited.
 - (2) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property, and which are of such intensity or brilliance as to cause a public nuisance, are prohibited.
 - (3) No sign shall be so floodlighted or illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.
 - (4) Spotlights and beacons are restricted under Subsection (b) above.

Sec. 13-1-110 Nonconforming Signs.

(a) **Nonconforming Signs.**

- (1) **Existing Signs.** Signs existing as of the effective date of this Article which do not conform to the provisions of this Article are nonconforming signs and shall be subject to the provisions of this Section. Nonconforming signs may be maintained. No nonconforming on-premise sign shall be altered or moved to a new location without being brought into compliance with the requirements of this Article. [Refer to Subsection (b) below.] Compliance is the responsibility of the property owner.
- (2) **Removal Upon Business Termination.** Nonconforming signs shall be removed when the principal structure located on the premises undergoes a change of use, or shall be removed per Section 13-1-114. Closing businesses must remove their signs within thirty (30) days of closing.
- (3) **Change in Sign User.** Whenever there is a change in the sign user (excluding off-premise signs) or owner of the property on which the sign is located, the new sign user or new property owner shall forthwith notify the Zoning Administrator of the change. No new sign permit is required unless there is modification of the sign face or sign structure.

(b) **Alteration of Signs.**

- (1) **Alteration Defined.** For the purpose of this Article, alteration of a sign is considered to be any change to the exterior appearance of any part of the sign, its frame, its supporting structure, or its lighting including: changing the message (except for marquee or off-premise advertising signs), symbols, color, material, height or location.
- (2) **Maintenance Exception.** Altering a sign does not include maintaining the existing appearance of the sign; replacing the sign face or the supporting structure with

identical materials, colors, and messages; changing the message of a marquee sign; or changing the face of an off-premise advertising sign.

(c) **Loss of Legal Nonconforming Status.**

(1) In addition to the standards in Subsections (a) and (b) above, a sign may also lose its nonconforming status if one (1) or more of the following occurs:

a. If said sign is damaged by fire, flood, explosion, earthquake, vandalism, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which case, the constructed sign shall comply with the provisions of this Article.

b. The sign is relocated;

c. The sign fails to conform to the City requirements regarding maintenance and repair, abandonment or dangerous or defective signs;

(2) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefor or shall be removed.

(d) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs. However, legal nonconforming signs shall not be reinstalled, reconstructed or have their useful life extended.

Sec. 13-1-111 Dangerous and Abandoned Signs.

(a) **Removal of Dangerous Signs.** All signs shall be removed by the owner or tenant of the premises upon which the sign is located if in the judgment of the Zoning Administrator, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or tenant fails to remove it, the Zoning Administrator may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Zoning Administrator to the Board of Appeals.

(b) **Abandoned Signs.** Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertised is no longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days' written notice to remove said sign and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator may take any other appropriate legal action necessary to attain compliance.

- (c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Sign Code after the date of adoption are hereby declared public nuisances within the meaning of the City of Amery Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator or Common Council may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes or City ordinance.

Sec. 13-1-112 Construction and Maintenance Regulations for Signs.

- (a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector or Zoning Administrator.
- (b) **General Requirements.**
- (1) **Construction Standards.** All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.
 - (2) **Projection.** Signs including supports shall not interfere with surrounding properties or traffic.
 - (3) **Prohibited Mounting.** No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.
 - (4) **Maintenance.** All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.
 - (5) **Annexed Areas.** All signs in newly annexed areas shall comply with this Article within three (3) years of annexation.

Sec. 13-1-113 Variances or Exceptions.

Variances or exceptions to these sign regulations may be granted by the Board of Appeals following a recommendation from the Zoning Administrator, pursuant to the procedures of the City Zoning Code.

Sec. 13-1-114 Violations of Sign Code.

- (a) **Construction Without Permit.** Any person, firm or corporation who begins, erects, improperly alters, or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.
- (b) **Compliance Notice.**
 - (1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, or has been improperly erected, altered or maintained, it shall give written notice to the sign owner and to the property owner.
 - (2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article.
- (c) **Violations; Penalties.** Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:
 - (1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation, upon conviction thereof, be subject to a forfeiture as prescribed by Section 13-1-155.
 - (2) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Article shall preclude the City from also maintaining any appropriate action to prevent or remove a violation of any provision of this Article.

Sec. 13-1-115 through Sec. 13-1-119 Reserved for Future Use.

Article I: Performance Standards

Sec. 13-1-120 Compliance.

This Chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with their district regulations and with the following performance standards.

Sec. 13-1-121 Sound.

The volume of sound inherently and recurrently generated shall not exceed the following standards at any point along the boundaries of the zone in which the use is located:

- (a) Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.
- (b) Maximum sound pressure levels shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association and shall not exceed the values for octave bands lying within the several frequency limits given in the following table after the application of appropriate corrections:

C-1 and C-2 Districts

Frequency Ranges Containing Standard Octave Bands in Cycles Per Second	Octave Band Sound Pressure Level in Decibels
0 - 74	72
75 - 149	67
150 - 299	59
300 - 599	52
600 - 1,199	46
1,200 - 2,399	40
2,400 - 4,800	34
Above 4,800	32

Type of Operation or Noise	Correction in Decibels
Daytime operation only	+ 5
Noise of impulsive character (e.g. hammering)	- 5
Noise of periodic character (e.g. hum, screech)	- 5

I-1 and I-2 Districts

Frequency Ranges Containing Standard Octave Bands in Cycles Per Second	Octave Band Sound Pressure Level in Decibels
0 - 74	79
75 - 149	74
150 - 299	66
300 - 599	59
600 - 1,199	53
1,200 - 2,399	47
2,400 - 4,800	41
Above 4,800	39

Type of Operation or Noise	Correction in Decibels
Daytime operation only	+ 5
Noise of impulsive character (e.g. hammering)	- 5
Noise of periodic character (e.g. hum, screech)	- 5

Sec. 13-1-122 Vibration.

No operation which creates vibrations which are readily detectable without the use of instruments at any point along lot lines shall be permitted.

Sec. 13-1-123 Radioactivity.

No operation shall be permitted which causes radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation", dated June 16, 1957, or any subsequent revisions or amendments.

Sec. 13-1-124 Toxic or Noxious Matter.

No discharge beyond lot lines of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business, shall be permitted.

Sec. 13-1-125 Glare.

No direct or reflected glare from any I-1 or I-2 Districts shall be detectable from any Residential boundary.

Sec. 13-1-126 Particulate Emissions.

- (a) **Dust.** No solid or liquid particles shall be emitted in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air.
- (b) **Fly Ash.**
- (1) No emission or fly ash in excess of the quantity specified in the following table shall be permitted:

Heat in Fuel Burned (British Thermal Units Per Hour	Fly Ash: Rate of Emission (Lbs. per Hour
1,000,000	1
100,000,000	100
400,000,000	330
1,000,000,000	750
2,000,000,000	1,365
3,000,000,000	1,850
4,000,000,000	2,260
5,000,000,000	2,640
6,000,000,000	2,950
7,000,000,000	3,200
8,000,000,000	3,410
10,000,000,000	3,750

- (2) For heat content between any two (2) consecutive heat contents given in the Table, the fly ash limitation shall be as determined by interpolation.
- (c) **Smoke.** No emission of smoke from any source, as measured on the Ringelmann Chart published by the United States Bureau of Mines, shall be permitted in excess of:
- (1) In a Business District, a density described as Ringelmann No. 2, provided that a density equal to Ringelmann No. 3 may be emitted for not more than three (3) minutes in any fifteen (15) consecutive minutes.
- (2) In an Industrial District, a density described as Ringelmann No. 3.

Sec. 13-1-127 through Sec. 13-1-129 Reserved for Future Use.

Article J: Signal Receiving Antennas; Wind Energy Systems; Wireless Telecommunications Systems

Sec. 13-1-130 Signal Receiving Antennas.

- (a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:
- (1) Provide uniform regulation where necessary of all signal receiving antenna devices;
 - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
 - (3) Preserve the integrity of historic preservation districts;
 - (4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and
 - (5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- (b) **Definitions.**
- (1) For purposes of this Section, a "signal receiving antenna" is defined as any outdoor apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.
 - (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his/her interest. The personal representative of at least one (1) owner shall be considered an owner.
- (c) **Limited Permit Requirement.**
- (1) No owner shall, within the City of Amery, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Zoning Administrator.
 - (2) Application for a signal receiving antenna permit when required under Subsection (c)(1) shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow a determination to be made that the device can be safely roof-mounted, or, in the case

of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.

- (d) **Exemption.** Signal receiving devices less than twenty-four (24) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e)(1), (7), (9) and (12).
- (e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the City shall comply with the following provisions:
 - (1) **Setbacks.**
 - a. Any signal receiving antenna and its mounting post shall be located a minimum of five (5) feet from any side or rear property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.
 - b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. For corner lots, a side yard is only a yard that does not face a street.
 - c. If side yard, front yard or roof mounting is requested, the Zoning Board of Appeals shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.
 - (2) **Mounting.** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
 - (3) **Diameter.** The diameter of the signal receiving antenna shall not exceed twelve (12) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.
 - (4) **Height.** A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed fourteen (14) feet in height, as measured from the ground to the highest point of the dish.
 - (5) **Roof-Mounted Antennas.**
 - a. In all residential zoning districts, roof-mounted antennas shall only be permitted subject to the provisions contained herein:
 - 1. Earth station dish antennas exceeding thirty-six (36) inches in diameter shall not be permitted on the roof, unless allowed under Subsection (c)(2) above.

2. A roof-mounted dish antenna shall not extend higher than fifteen (15) feet above the highest point of the roof, unless allowed under Subsection (c)(2) above.
- b. In the commercial and industrial zoning districts, earth station dish antennas shall not extend more than twenty (20) feet above the height limit established for the district in which the structure is located.
- (6) **Wind Pressure.** All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
- (7) **Electrical Installations.** To safeguard public safety, electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.
- (8) **Temporary Placement.** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section.
- (9) **Advertising.** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
- (10) **Interference with Broadcasting.** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (11) **Compliance with Federal Regulations.** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder, including Federal Communications Commission rules.
- (12) **Aesthetic Considerations.** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
- (f) **Enforcement.**
 - (1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Common Council, a City enforcement official, or any property owner who would be

specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

- (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-7.

Sec. 13-1-131 Conditional Use Permits Required—Wind Energy Systems.

- (a) **Approval Required.** No owner shall, within the City of Amery, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for Each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **Basis of Approval.** The Common Council shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

Sec. 13-1-132 Permit Procedure—Wind Energy Systems.

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the City of Amery. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further

indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

- (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
- (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
- (6) Any other information which the Zoning Administrator, Common Council or Building Inspector may deem to be necessary to the proper review of the application.
- (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Common Council.
- (b) **Hearing.** Upon referral of the application, the Common Council shall schedule a public hearing thereof following the procedures for conditional use permits in Article E.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Common Council shall, as soon as practical, render its decision and a copy be made a permanent part of the Council's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Common Council may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Common Council following a public hearing thereon.
- (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Common Council and if, in the opinion of the Council, such change or addition constitutes a substantial alteration, a public hearing before the Common Council shall be required and notice thereof be given.
- (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

Sec. 13-1-133 Specific Requirements Regarding Wind Energy Systems.

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the

generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

Sec. 13-1-134 Wireless Telecommunications Systems.

- (a) **Definitions.** For the purpose of this Chapter and any permit issued in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided for in this Chapter or unless the context

clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the City of Amery:

- (1) **Antenna.** Any structure or device for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
- (2) **City Engineer.** The City Engineer of the City of Amery.
- (3) **Entity.** Any individual, corporation, partnership, association or other legal entity which seeks to provide a Wireless Telecommunications System.
- (4) **FCC.** The Federal Communication Commission or its legally appointed successor.
- (5) **Permittee.** Any entity or its legal successor in interest who is issued a Wireless Telecommunications Permit and/or a Structure Location Permit in accordance with the provisions of this Chapter for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding, or replacing of a Wireless Telecommunications System in the City.
- (6) **Street.** Any area established for vehicular or public access use of the entire width between the property lines of every way publicly maintained when any part thereof is open for public purposes. "Street" includes, but is not limited to, a highway, avenue, road, alley, right-of-way, lane, boulevard, concourse, bridge, tunnel, parkways and waterways.
- (7) **Structure Location Permit.** A permit issued by the Zoning Administrator which authorizes the location of an Antenna or Tower at a particular geographic location.
- (8) **Total Gross Revenue.** All cash, credits or other property of any kind or nature reported as revenue items to the Permittee's audited financial statements arising from or attributable to the sale, lease, rental or exchange of Wireless Telecommunications Services or the equipment by the Permittee within the City or in any way derived from the operation of its Wireless Telecommunications System, including, but not limited to, any interconnection between its system and the City and any system whatsoever. This shall be the basis for computing the fee imposed pursuant to Subsection (b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits or sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal services charges and are remitted by the Permittee directly to the taxing authority.
- (9) **Tower.** Any ground, building or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna.
- (10) **Wireless Telecommunications Permit.** The privilege granted by the City by which it authorizes an entity to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, build or replace a Wireless Telecommunications System. Any permit issued in accordance herewith shall be a non-exclusive permit.

- (11) **Wireless Telecommunications Service.** A licensed commercial wireless telecommunications service including cellular, Personal Communication Services ("PCS"), Specialized Mobile Radio ("SMR"), Enhanced Specialized Mobilized Radio ("ESMR") paging, and similar services that are marketed to the general public.
- (b) **License Requirements; Fees.**
- (1) No entity may construct, operate or continue to operate a Wireless Telecommunications System within the City without having been issued a Wireless Telecommunications Permit by the Zoning Administrator.
 - (2) It shall be a term and condition of any Wireless Telecommunications Permit issued in accordance herewith and part of the consideration supporting the issuance of such Wireless Telecommunications Permit that the Permittee shall pay to the City the sum of five percent (5%) of all Total Gross Revenue derived from the operation of Wireless Telecommunications System. Such payments shall be made annually within one hundred twenty (120) days after the close of the calendar year. All fee payments shall be subject to audit by the City and assessment or refund if the payment is found to be in error. In the event that an audit by the City results in an assessment of an additional payment to the City, such additional payment shall be subject to interest at the rate of one and one-half percent (1-1/2%) per month retroactive to the date such payment originally should have been made. Such payment shall be due and payable immediately and shall include the costs of conducting said audit.
 - (3) **Structure Location Permit Fees.**
 - a. All applicants for a Structure Location Permit shall pay to the City a permit request fee as prescribed in Section 1-3-1 per site.
 - b. Any entity operating a Wireless Telecommunications System shall pay to the City an annual Structure Location Permit Fee as prescribed in Section 1-3-1 per site.
 - (4) The request fee shall be paid to the Zoning Administrator at the time of making application for a Structure Location Permit. The annual Structure Location Permit Fee provided for in Subsection (c) above shall be paid to the Zoning Administrator annually on or before October 1 of each calendar year for the portion of the Wireless Telecommunications System within the City right-of-way on January 1 of that year, and a prorated license fee, based upon the calendar quarter in which the application is filed, shall be paid at the time of the application for a Structure Location Permit. Such quarterly fees are due on January 1, April 1, July 1 and September 1.
 - (5) Fees not paid within ten (10) days after the due date shall incur interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.
 - (6) The acceptance of any fee payment required hereunder by City shall not be construed as an acknowledgment that the payment paid is the correct amount due, nor shall such acceptance of payment be construed as release of any claim which the City may have for additional sums due and payable.

(c) **Conditions of Permit.**

- (1) Any Wireless Telecommunications Permit or Structure Location Permit issued by the City shall be a non-exclusive permit for the use of those areas within the City specified in the Wireless Telecommunications Permit or Structure Location Permit.
- (2) Any Wireless Telecommunications Permit or Structure Location Permit issued by the City shall continue in full force and effect so long as the Permittee is in compliance with this Chapter, all applicable federal, state and local ordinances and regulations and the space occupied is not deemed to be needed by the City for any other public purpose.
- (3) In the event any Wireless Telecommunications Permit or Structure Location Permit is revoked by the City, the Wireless Telecommunications System shall, at the sole option of the City, be removed within thirty (30) days at the sole expense of the Permittee.

(d) **Permit Locations and Conditions.** Antennas and towers authorized by a Structure Location Permit shall comply with the following requirements:

- (1) A proposal for a new antenna or tower shall not be approved unless the City finds that the telecommunication equipment planned for a proposed antenna cannot be accommodated on an existing or approved tower within a one (1) mile radius of the proposed location due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing unit or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b. The equipment would cause interference materially impacting the usability of other existing or approved equipment at the Tower as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved towers within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified and licensed professional engineer.
 - d. Other unforeseen reasons make it unfeasible to locate the planned telecommunication equipment upon an existing or approved tower.
- (2) Any proposed tower shall be designed in all respect to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height and for at least one (1) additional user if the tower is sixty (60) to one hundred (100) feet in height. Towers must be designed to allow for future rearrangements of antennas upon the tower and to accept antennas mounted at varying heights. All towers shall be erected and constructed in such a manner as to comply with all applicable City ordinances. All towers and antennas shall be designed to blend into the surrounding environment through the use

of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Towers shall not be illuminated by artificial means and shall not display strobe lights except if such lighting is specifically required by the Federal Aviation Administration or other state or federal authority. Any Permittee seeking to operate a Wireless Telecommunications Systems shall provide the City with a letter of intent signed by the tower owner committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet objectively reasonable terms and conditions for share use.

(e) **Use of Streets and Pole Attachments.**

- (1) Before commencing construction of a Wireless Telecommunications System in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the City, the permittee shall first obtain the written approval of, and all other necessary permits from, all appropriate City agencies, including, but not limited to, the Zoning Administrator and the Department of Public Works. Applicants for such approval shall be made in the form prescribed by the City Engineer.
- (2) Upon obtaining such written approval, the Permittee shall give the City Engineer and any other appropriate agency written notice within a reasonable time for proposed construction, but in no event shall such notice be given less than ten (10) days before commencement of such construction, except for emergency repairs of existing lines and cables.
- (3) Any entity that submits a request for a Wireless Telecommunications Permit in accordance herewith shall include therein proposed agreements for the use of existing towers and antennas, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed Wireless Telecommunications System.
- (4) It shall be unlawful for the Permittee or any other person or entity to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without first obtaining approval to do so after proceeding in the manner described in Subsection (e)(1) and (2). Violation of this Subsection shall subject the Permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the City.
- (5) The Permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the City's standard specifications for streets and sidewalks, and shall at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured, by or on account of its activities, to as good as the condition such property was immediately prior to the disturbance, damage or injury, or pay the fair market value of such property to its owner(s), or shall make such other repairs or restoration as outlined in the approved permit.
- (6) The Permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such

street or other public place, any of its property when required to do so by the City because of street or other public excavation, construction, repair, regrading or grading, traffic conditions, installation of sewers, drains, water pipes, City-owned power or signal lines, tracts, vacation or relocation of streets or any other type of construction or improvement of a public agency, or any type of improvement necessary for the public health, safety or welfare, or upon termination or expiration of the permit.

- (7) The Permittee shall maintain all wires, conduits, cables or other real and personal property and facilities in good condition, order and repair. The Permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the City Engineer governing the construction and installation of Wireless Telecommunications Systems.
 - (8) The Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the City and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the City Engineer.
 - (9) The Permittee shall comply with all rules and regulations issued by the City Engineer governing the construction and installation of Wireless Telecommunications Systems.
- (f) **Violation and Penalties.** Any entity who shall carry on or conduct any business or occupation or profession for which a Wireless Telecommunications Permit or a Structure Location Permit is required by this Section without first obtaining such a permit shall be considered to be in violation of this Section and, upon conviction, shall be punished as provided in Section 13-1-155. Each day any violation continues shall be deemed a separate, chargeable offense. No tower or antenna may be sited on residential property within the City. Placement of towers or antennas on such residentially-zoned property shall be a violation of this Section and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per day for each day that the tower or antenna is in place. Any other violation of this Section shall be punished as provided in Section 13-1-155.
- (g) **Restrictions on Assignment, Transfer, Sale and Subleasing.**
- (1) The rights and privileges hereby granted are considered personal, and if the Permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the City shall have the right to terminate any and all permits issued hereunder for no other cause. The City shall terminate such permits in writing, by certified mail, return receipt requested, to the Permittee, and such termination shall be effective sixty (60) days from said date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the City given by written resolution.
 - (2) In addition to the provisions of termination provided for in Subsection (g)(1), the City shall have the right to terminate any and all permits issued hereunder upon any actual

or pending change in, or transfer of, acquisition by any other party, or control of Permittee. The word "control" as used in this context is not limited to major stockholders, but includes actual working control in whatever manner exercised. The Permittee shall annually submit to the City a list of all shareholders and a list of all officers and directors. By acceptance of the Wireless Telecommunications Permit, the Permittee specifically agrees that any violation of this Section shall, at the City's option, cause any and all permits granted the Permittee under this Section to be revoked.

(h) Reports.

- (1) Entities requesting a Wireless Telecommunications Permit may be required by the City to submit evidence of financial capability to construct and operate a Wireless Telecommunications Permit. Such evidence may include, but is not limited to, previous years' audited financial statements for the entity, individual financial statements of principals or investors or such other financial information as the City may desire.
- (2) The Permittee shall provide the City with a written statement from an independent certified public accountant within one hundred twenty (120) days after the close of the calendar year that such certified public accountant has reviewed the books and records of the Permittee as they related to any permits issued under this Section, and based upon such review, the certified public accountant believes the payment received by the City properly reflects the fee due to the City with respect to this Section. The City shall have the right to reasonable inspection of the Permittee's books and records during normal business hours.

Sec. 13-1-135 through Sec. 13-1-139 Reserved for Future Use.

Article K: Accessory Uses and Structures; Fences; Trees

Sec. 13-1-140 Accessory Uses or Structures.

- (a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) **Placement Restrictions — Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
 - (1) **Accessory Building Number Limits.** In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building may be placed on a lot.
 - (2) **Attached Accessory Building Limits.** No attached accessory building or structure shall exceed the height of the principal building or structure. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 - (3) **Detached Accessory Buildings.** No detached accessory building (non-garages) shall occupy any portion of the required front yard, and no detached accessory building shall occupy more than forty percent (40%) of the required rear yard (whichever is more restrictive), or be located within three (3) feet of any other accessory building or rear or side lot line or within five (5) feet of an alley. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure. No residential detached accessory building shall exceed twenty (20) feet in height.
 - (4) **Attached Garages.** Attached garages shall comply with the dimensional requirements of the zoning district in which located. Attached garages shall comply with the setback requirements applicable for principal structures on the lot.
 - (5) **Detached Garages.** Detached garages are permitted in the rear yard and side yards only. They shall not exceed the area requirements found in the standards for each zoning district and the roof pitch shall not exceed the steepest pitch of the principal structure. The total lot coverage shall not exceed the total allowed as set forth in the zoning district where the garage will be located. Total lot coverage shall include all buildings located on the lot. Detached garages shall not be located nearer than three (3) feet to a rear or side yard or within five (5) feet of an alley.
- (c) **Use Restrictions—Residential Districts.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.

- (d) **Placement Restrictions—Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard only and shall not be nearer than five (5) feet to any side or rear lot line, be within five (5) feet of an alley, or exceed thirty-five (35) feet in height.
- (e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.
- (f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
 - (1) That such private garage shall be located not less than five (5) feet from the front lot line;
 - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
 - (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.
- (i) **Outdoor Lighting.** Outdoor residential lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.
- (k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed three (3) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.
- (l) **Agricultural Structures.** Agricultural structures such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.

Sec. 13-1-141 Outside Storage of Firewood.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.

- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

Sec. 13-1-142 Fences.

- (a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as a barrier consisting of wood, stone, cement, masonry, metal or vegetation, such as hedges or shrubbery, intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- (b) **Location of Fence.** A fence shall not be located nearer than three (3) feet from the property line of an adjacent owner's property.
- (c) **Height of Fence for Residential Zoned Property.** Except as provided in Section 13-1-90 and Subsection (e) below, fences may be erected, placed, maintained or grown on residentially-zoned property to a height not exceeding five (5) feet above the ground level except that a fence which is located in a required front yard shall not exceed a height of three (3) feet. Where residentially-zoned property is adjacent to non-residentially-zoned property, the height limit of a fence shall be increased to eight (8) feet.
- (d) **Height of Fence for Industrial Zoned Property.** Any property located in an industrial district shall have fencing consisting of effective solid vegetation along all lot lines adjoining any residential district unless waived by the Plan Commission. Said fencing shall not be less than eight (8) feet in height.
- (e) **Vision Clearance.** On a corner lot in any district, no fencing shall be erected, placed, maintained or grown at a height exceeding three (3) feet above the curb level or its equivalent within twenty (20) feet of the corner of such lot that is at the street intersection.
- (f) **Prohibited Fences.**
 - (1) No fence shall be constructed which is of a dangerous condition, or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.
 - (2) Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control.

- (3) No woven, twisted, welded or interlaced wire fence, such as using chicken wire, shall be located in a non-industrial district, unless such fencing is ornamental in character.
- (4) No wood-slat or plastic snow fence shall be permitted as a regular use in a Residential District, except as a temporary use under Subsection (h).
- (g) **Fences to be Repaired.**
 - (1) All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
 - (2) Any existing fences which do not conform to the requirements of this Section and which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence, said entire fence shall either be completely dismantled or reconstructed in compliance with the provision of this Section.
 - (3) All new and existing fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. If a fence needs repair and maintenance, said fence shall be painted or stained in only neutral colors. Failure to maintain a fence in good condition and repair will result in the City issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that failure to comply will result in a violation and with a penalty set forth in Section 1-1-7,
- (h) **Temporary Fences.**
 - (1) No permit is needed for a temporary fence. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than one hundred fifty (150) days.
 - (2) This Section is not intended to regulate seasonal or temporary fences such as garden or snow fences except that such fences shall be removed when the condition or season for the said fence was erected no longer exists. There shall be no fee for any such seasonal or temporary fence.
- (i) **Visibility; Open Spacing Requirement.**
 - (1) In any non-residential area, fences shall be of such type and construction that shall allow people outside the fence to see through it without hindrance. However, if a residence exists in a non-residential zone, a fence may be constructed pursuant to the requirements of Subsection (i)(2) below. In an industrial area where barbed wire is used, the lowest strand shall be a minimum of six (6) feet above the grade.
 - (2) All fences hereafter erected or constructed shall provide openings for a passage of air equivalent to twenty-five percent (25%) of the surface area of the fence and shall have the structural components thereof facing the side of the property for and on which the

same are erected. In residential areas where privacy is desired, privacy fences with less than such twenty-five percent (25%) open spacing may be erected, provided such fence may not extend farther than twenty-five percent (25%) from the main rear line of such residence. A fence situated in a residential area shall be constructed only of wood or chain link type fencing. Fences shall not be constructed of luminous materials or smooth or corrugated metal materials. All fences, including privacy fences, if said fence is to be stained or painted by the property owner or on his/her behalf, shall be stained or painted in only neutral colors.

- (j) **Special Purpose Fences.** Fences for confining dogs, etc., shall not exceed six (6) feet in height, and shall be no larger than necessary for such purpose and shall conform to the building setbacks of this Chapter. Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-143.
- (k) **Height Determination.** The height of any fence erected under this Section shall be determined by the measurement from the uppermost point of the fence to the existing ground level of the property.
- (l) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section.
- (m) **Fence Permit Required.** No person shall erect a fence in the City without first obtaining a fence permit from the City and paying a Five Dollar (\$5.00) fee. The applicant shall provide the Zoning Administrator with accurate design information for the proposed fence. Permits may only be issued for proposed fences complying with this Section.
- (n) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

Sec. 13-1-143 Swimming Pools and Hot Tubs.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than two (2) feet located above or below the surface of ground elevation, having an area greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of twenty-four (24) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.

- (c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed:
- (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations and with any and all Ordinances of the City now in effect or hereafter enacted.
 - (2) All plumbing work shall be in accordance with all applicable Ordinances of the City and all state codes. Every private or residential swimming pool or hot tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
 - (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool or hot tub shall be in conformance with the state laws and City Ordinances regulating electrical installations.
- (d) **Setbacks and Other Requirements.**
- (1) Private swimming pools or hot tubs shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool or hot tub shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
 - (2) No swimming pool or hot tub shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool or hot tub be less than six (6) feet from any lot line.
 - (3) Swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.
 - (4) Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.
- (e) **Enclosure.**
- (1) Except as hereinafter provided, every outdoor swimming pool and hot tub shall be completely surrounded by a fence or wall in addition to the pool wall of an above ground pool. Said fence or wall shall be constructed to a height of no less than six (6) feet. Any fence or wall shall be located to a minimum horizontal distance of four feet from the edge of the swimming pool or hot tub.
 - (2) A dwelling, deck or accessory building may be used as part of such enclosure and may be located within four (4) feet of the swimming pool or hot tub, providing it

meets or exceeds the minimum fence and wall requirements provided above. All gates or doors opening through such enclosures shall be equipped with a latching device capable of keeping the gate or door securely closed at all times when not in actual use. Each such gate shall be secured by a combination lock or by a lock worked by a key.

- (3) A swimming pool or hot tub which has a pool wall exceeding fifty (50) inches above the grade shall be exempt from the fencing requirement, provided it has a retractable ladder or gate capable of being closed and latched and locked with a combination lock or by a lock worked by a key when the swimming pool or hot tub is not in use.
- (4) Swimming pools and hot tubs surrounded in whole or in part by a deck which has steps leading to the swimming pool or hot tub shall be equipped with a gate a minimum of four (4) feet in height and capable of being latched and locked with a combination lock or by a lock worked by a key to secure access to the swimming pool or hot tub when not in use.
- (5) Service gates and gates which are part of a fence or wall enclosing a swimming pool or hot tub which are located across a driveway shall be kept closed and latched at all times by the property owner or occupier when not in use for ingress or egress. When such areas are not in use, such gates shall be locked with a combination lock or by a lock worked by a key.
- (6) Hot tubs equipped with a fitted cover and capable of supporting a minimum of two hundred (200) pounds shall be exempt from required fencing.
- (7) Enclosure requirements are applicable to all swimming pools and hot tubs, other than indoor pools, and shall apply to all existing swimming pools and hot tubs which have a minimum depth of twenty-four (24) inches of water.

Sec. 13-1-144 Location of Trees Regulated.

Trees shall be placed not closer than three (3) feet from the property line of adjacent properties.

Cross-Reference: Title 6, Chapter 4.

Sec. 13-1-145 through Sec. 13-1-149 Reserved for Future Use.

Article L: Administration

Sec. 13-1-150 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Common Council. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

Sec. 13-1-151 Zoning Administrator.

- (a) The Common Council shall designate a City official to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:
 - (1) Maintain records of all permits issued, inspections made, work approved and other official actions.
 - (2) Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
 - (3) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
 - (4) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
 - (5) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by him.
 - (6) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
 - (7) Request assistance and cooperation from the Zoning Administrator, Building Inspector and City Attorney as deemed necessary.
- (b) Due to the size of the City of Amery it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator on a part-time basis. It is therefore provided that the function of the Zoning Administrator can be delegated to a committee of the Council or a single member of the Council or the Mayor. An officer other than a Council member or another employee of the City may also be designated to handle the duties of Zoning Administrator on part-time basis in addition to the other duties

performed by such person. In the absence of a different appointment being made, the City Administrator shall serve as the Zoning Administrator.

Sec. 13-1-152 Role of Specific City Officials in Zoning Administration.

- (a) **Common Council.** The Common Council, the governing body of the City, subject to the holding of public hearings by said Council, has ultimate authority to grant permitted conditional uses, planned unit development conditional uses, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter.
- (b) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article N of this Chapter for detail provisions.

Sec. 13-1-153 Zoning Permit.

- (a) **Zoning Permit Required.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit. The zoning permit may be issued as part of issuance of a building permit; there shall be a charge for only one (1) permit under such circumstances.
- (b) **Application.** Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
 - (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
 - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.

- (4) Fee receipt from the City Administrator in an amount as prescribed in Section 1-3-1 per application to cover the cost of notices and processing.
 - (5) Additional information as may be required by the Zoning Administrator or Common Council.
- (c) **Action.**
- (1) A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
 - (2) The permit shall expire within six (6) months unless substantial work has commenced or within eighteen (18) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the application shall reapply for a zoning permit before commencing work on the structure.
 - (3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

Sec. 13-1-154 Site Plan Approval.

- (a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in Residential Districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this Section and Section 14-1-23.
- (b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- (c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans, and refer them, along with a report of his/her findings, to the Plan Commission within ten (10) days. The Plan Commission shall review the application and may refer the application and plans to one or more expert consultants selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.
- (d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
 - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and

improvement of areas for parking and for loading and unloading; and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

- (3) The adequacy of the proposed water supply, drainage facilities, and sanitary and waste disposal.
- (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns, and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the City Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Common Council and shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

Cross-Reference: Section 14-1-23.

Sec. 13-1-155 Violations and Penalties.

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-7 of this Code of Ordinances.

Sec. 13-1-156 through Sec. 13-1-159 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-160 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Common Council may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review of the Common Council.

Sec. 13-1-161 Initiation of Changes or Amendments.

The Common Council, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

Sec. 13-1-162 Procedure for Changes or Amendments.

- (a) **Application.** Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
 - (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
 - (2) Owners' names and addresses of all properties lying within one hundred (100) feet of the area proposed to be rezoned.
 - (3) Together with additional information as may be required by the Common Council.
 - (4) Payment of an application fee as prescribed in Section 1-3-1.
- (b) **Hearings.**
 - (1) The application shall be referred to the Plan Commission, which shall review such application and make an advisory recommendation to the Common Council.

- (2) The Common Council shall hold a public hearing at a time established by the Common Council upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days' prior, written notice shall also be given to the Administrator of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
- (c) **Common Council's Action.** Following such hearing, the Common Council shall vote on the proposed ordinance effecting the proposed change or amendment.

Sec. 13-1-163 Protest.

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership.
- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Common Council membership to adopt such amendment.

Sec. 13-1-164 through Sec. 13-1-169 Reserved for Future Use.

Sec. 13-1-170 Appeals to the Zoning Board of Appeals.

- (a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
 - (1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
 - (2) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (3) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Common Council has made a review and recommendation.
 - (4) **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Common Council has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (5) **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Common Council has made a review and recommendation.

- (6) **Temporary Uses.** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Common Council has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
- (7) **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.
- (d) **Appeals Applications.** Parties intending to appeal an authorized matter to the Zoning Board of Appeals shall file an application satisfying the requirements of Section 13-1-173(b), along with an application fee as prescribed in in Section 1-3-1.

Sec. 13-1-171 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

Sec. 13-1-172 Decisions of Board of Appeals.

- (a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.
- (b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- (c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

Sec. 13-1-173 Variations.

- (a) **Purpose.**
 - (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition.

A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.

- (2) The Common Council may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
 - (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.
- (b) **Application for Variation.** The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
- (1) Name and address of applicant and all abutting and opposite property owners of record.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property and a statement on why this matter is being brought before the Zoning Board of Appeals.
 - (3) Address and description of the property.
 - (4) A site plan showing an accurate depiction of the property.
 - (5) Additional information required by the City Engineer, Common Council, Zoning Board of Appeals or Zoning Administrator.
 - (6) Fee receipt in the amount prescribed by Section 1-3-1.
- (c) **Public Hearing of Application.** The Common Council shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more of the newspapers in general circulation in the City, and shall give due notice to the parties in interest, the Zoning Administrator and the Common Council. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- (d) **Action of the Board.** For the Board to grant a variance, it must find that:
- (1) Denial of variation may result in hardship to the property owner due to physiological consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended

use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

- (2) The conditions upon which a petition for a variance is based are unique to the property for which variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.
 - (4) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code.
- (e) **Board of Appeals Action.** Parties may appeal decisions of the Common Council under this Section to the Board of Appeals; the Board of Appeals shall follow the procedures applicable to the Common Council under this Section.
- (f) **Conditions.** The Common Council or the Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

Note: The Wisconsin Supreme Court, in *State ex rel. Ziervogel v. Washington County Board of Adjustment* (Case No. 02-1618, March 19, 2004), decided that there are two (2) types of standards to be applied when considering variance requests — a "use" variance standard and an "area" variance standard. When considering an "area" variance, the test is the existence of an unnecessary hardship, whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. When considering a "use" variance, to grant a variance it must be demonstrated that no reasonable use of the property would be possible without the variance.

Sec. 13-1-174 Review by Court of Record.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

Sec. 13-1-175 through Sec. 13-1-179 Reserved for Future Use.

Article O: Mobile Homes

Sec. 13-1-180 Intent—Where Mobile Home Parks Permitted.

- (a) **Non-Residential Use.** A trailer or mobile home shall not be considered to be permissible as an accessory building. However, a trailer or mobile home may be used as a temporary office or shelter incidental to construction on or development of the premises on which the trailer is located only during the time construction or development is actively under way.
- (b) **Location.** No person shall park, store, or occupy a house trailer or mobile home for living purposes except as follows:
 - (1) Not more than one mobile home shall be permitted on the same lot as an agricultural use. However, this restriction shall not be construed as precluding temporary, seasonal housing for migrant farm laborers.
 - (2) In connection with, and on the same lot as, a single-family dwelling, for a period not to exceed fifteen (15) days in duration. Not more than one mobile home shall be allowed on such lot at any one time. No such residential lot shall be occupied by a mobile home for more than a total of thirty (30) days in any one year.
 - (3) In an approved mobile home park, in accordance with the following conditions:
 - a. Mobile home parks shall be allowed only as conditional uses in the R-1 District and shall abut a Business or Industrial District or be separated from such Business or Industrial District only by a street or an alley.
 - b. Each mobile home park shall have direct access to a principal county, township, city, or state highway or arterial street or road.

Sec. 13-1-181 Definitions.

The following definitions are used in this Article:

- (a) **Mobile Home Communities (Parks).** Mobile home communities/parks are distinguished from subdivisions lacking common facilities and continuing management services. The latter would be controlled by general subdivision regulations, which would apply also to mobile home subdivisions without common open space of continuing management.
- (b) **Mobile Home Subdivision.** A parcel of land platted for subdivision according to all requirements of the comprehensive plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by mobile homes.
- (c) **Residential Mobile Home.** A single-family dwelling built on or after October 1, 1974, in accordance with the ANSI Code (American National Standards Institute) or in accordance with the HUD Code (Housing & Urban Development), both of which govern the heating and cooling systems, electrical systems, fire safety, body and frame construction, thermal protections, and plumbing systems. All said homes shall bear the proper approved Wisconsin insignia as required by COMM 20.12–20.17, Wis. Adm. Code.

- (d) **Foundation Siding.** A fire and weather resistant, pre-finished material surrounding the entire perimeter of a home and completely enclosing the space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious, and compatible with the house and installed within sixty (60) days from the date of placement on site.
- (e) **Primary Exposure.** Are open areas adjacent to the front wall (or main entrance) of a dwelling unit.
- (f) **Secondary Exposure.** Are open areas adjacent to side and rear walls of a dwelling unit.
- (g) **Statutory Definitions.** In addition to the above definitions, definitions contained in Sec. 66.0435, Wis. Stats., shall also be applicable.

Sec. 13-1-182 Mobile Home Park Regulations.

- (a) **Size.** Mobile home parks shall comply with the following requirements:
 - (1) No permit shall be issued for the establishment of a new mobile home park unless such park contains at least twenty (20) acres of area.
 - (2) The average individual mobile home lot size shall not be less than four thousand (4,000) square feet in area, and no lot shall be smaller than three thousand, two hundred (3,200) square feet in area.
 - (3) Each individual mobile home lot shall be at least forty-four (44) feet in effective width. Effective width shall mean the distance between side lot lines, measured at the rear line of the required front yard. On diagonal lots, it shall be measured at right angles across the lot from one diagonal side line to the other.
- (b) **Yards and Setbacks.** The following minimum setback regulations shall apply:
 - (1) No building, structure, or mobile home shall be located closer than fifty (50) feet to any property line of the mobile home park, nor closer than seventy-five (75) feet to any principal county, township, city, or state highway or arterial street or roadway right-of-way.
 - (2) Mobile homes shall be set back at least fifteen (15) feet from the pavement of streets or roadways within the park.
 - (3) No part of any mobile home, or any addition or appurtenance thereto shall be placed within ten (10) feet of any other mobile home, addition, or appurtenance thereto.
- (c) **Height.** No building, structure, or trailer located in a mobile home park shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height.
- (d) **Parking.** There shall be at least one off-street parking space available to each individual mobile home lot and located within one hundred (100) feet of such lot. However, the total number of parking spaces provided in each mobile home park shall be equal to not less than one and one-third (1-1/3) times the maximum number of mobile homes to be accommodated.

- (e) **Landscaping.** Along each property line of a mobile home park there shall be provided, within the fifty (50) foot setback area, screen fencing or landscape planting which shall be so designed and/or planted as to be fifty percent (50%) or more opaque when viewed horizontally between two (2) feet and eight (8) feet above average ground level.
- (f) **Design and Improvements.** The design and improvements to be provided in the proposed mobile home park, including street widths and construction of approach streets or ways, shall conform to the requirements of the City Subdivision Regulations for conventional residential subdivision containing ten thousand (10,000) square foot lots. However, the street width and construction requirements in the subdivision regulations shall be applied only to those streets which would be necessary to service a future conventional residential subdivision on such tract of land, and need not be applied to secondary mobile home site access streets or ways.
- (g) **Common Space.** Each mobile home park shall provide at least three (3) acres of common space, exclusive of the required fifty (50) foot peripheral setback, for use by recreational or service facilities. An additional two hundred (200) square feet of common space shall be provided for each house trailer in excess of one hundred sixty (160) contained within the park.

Sec. 13-1-183 through Sec. 13-1-199 Reserved for Future Use.

Article P: Airport Height Limitation Zoning

Sec. 13-1-200 Definitions.

The following definitions shall be applicable in this Article, unless the context otherwise requires:

- (a) **Airport.** The Amery Municipal Airport located in the City of Amery, in Sections 5 and 8, Town 32N, Range 16W, Polk County, Wisconsin.
- (b) **Airport Hazard.** Any structure or object of natural growth, which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
- (c) **Non-Conforming Use.** Any structure or tree which does not conform to a regulation prescribed in this Article or an amendment thereto, as of the effective date of such regulation.
- (d) **Person.** Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (e) **Structure.** Any object constructed or installed by man.
- (f) **Trees.** Does not include shrubs, bushes or plants which do not grow to a height of more than twenty (20) feet.
- (g) **Runway.** A level portion of an airport having a surface specially developed and maintained for the landing and takeoff of aircraft.
- (h) **Height.** The overall height of the top of a structure, including any appurtenance installed thereon, or the top of any object of natural growth.

Sec. 13-1-201 Mapping Zones.

All zones established by this Article are as shown on the map dated January 13, 1996 entitled "Height Limitation Zoning Map, Amery Municipal Airport, Polk County, Wisconsin", which is adopted as part of this Article by reference.

Sec. 13-1-202 Height Limitation Zones.

Except as otherwise provided in this Article, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow to a height in excess of the height limit indicated on the map referred to in Section 13-1-201.

Sec. 13-1-203 Use Regulation Exceptions.

The restrictions contained in Section 13-1-202 shall not apply to objects which are less than thirty-five (35) feet in height above ground level at the object site within one-half (1/2) mile of the airport boundary or to structures less than fifty (50) feet in height above ground within the area beginning one-half (1/2) mile from the airport boundary and extending to three (3) miles from the airport boundary.

Sec. 13-1-204 Nonconforming Uses.

- (a) **Not Retroactive.** The regulations prescribed in Sections 13-1-201 and 13-1-202 shall not be construed to require the removal, lowering or other change or alteration of any non-conforming use, or otherwise interfere with the continuance of any non-conforming use, except as otherwise provided by Section 13-1-206(b).
- (b) **Changes.** Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the original effective date of this Article, and if such is diligently prosecuted.
- (c) **Removal.** This Article shall not interfere with the removal of non-conforming uses by purchase or the use of eminent domain.

Sec. 13-1-205 Administration.

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by the Zoning Administrator. Applications for permits or variances shall be granted or denied within sixty (60) days of the date of filing of the applications, unless Federal Aviation Administration approval is requested. Applications for action by the Board of Appeals shall be forthwith transmitted by the Zoning Administrator to the Board for hearing and decision. There shall be no charge for applications or permits.

Sec. 13-1-206 Permits.

- (a) **Permits for Future Uses.** No structure shall hereafter be constructed, erected or installed or be permitted to remain in any zone created by Section 13-1-201 until the owner or his/her agent shall have applied in writing for a permit therefor and obtained such permit from the Board of Appeals, except structures less than thirty-five (35) feet in height above the ground and within one-half (1/2) mile of the airport boundary and structures less than fifty (50) feet in height above the ground within the area beginning one-half (1/2) mile from the airport boundary and extending to three (3) miles from the airport boundary. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall

indicate the use for which the permit is desired, and shall described whether such use would confirm to the regulations herein prescribed. If such determination is in the affirmative, the Board of Appeals shall issue the permit applied for. The City shall have the right to trim, prune, or remove at the City's expense any tree which was planted after adoption of this Chapter and found to be in violation of the height restriction for the zone in which it is located.

- (b) **Existing Uses.** Before any non-conforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by Subsection (a) authorized such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the original effective date of this Article, or than it was when the application for permit was made.

Sec. 13-1-207 Board of Appeals.

Any reference in this Article to a Board of Appeals shall mean the Zoning Board of Appeals as established by Section 2-4-4 of this Code of Ordinances. Said Board shall exercise any powers granted under this Article to the "Board of Appeals".

Sec. 13-1-208 Appeals and Review.

- (a) **Variances.** Upon appeal in special cases the Board of Appeals may, after investigation and public hearing, grant such variance from the terms of this Article as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this Article would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this Article, and does not create a hazard to the safe, normal operation of aircraft.
- (b) **Aggrieved Person.** Any person aggrieved or affected by any decision or action of the Zoning Administrator made in administration of this Article may appeal such decision or action to the Board of Appeals.
- (c) **Procedure.** Any appeal taken pursuant to this Section shall be in conformity with the procedure established by Section 62.23(7)(3), Wis. Stats.

Sec. 13-1-209 through Sec. 13-1-219 Reserved for Future Use.

Article Q: Definitions

Sec. 13-1-220 Definitions.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a Section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.
- (1) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
 - (2) **Advertising Sign, Outdoor.** A structural poster panel or painted sign, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
 - (3) **Advertising Structure, Outdoor.** Anything constructed or erected, either free standing or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.
 - (4) **Alley.** A special public right-of-way affording only secondary access to abutting properties.
 - (5) **Apartment.** A portion of a residential or commercial building used as a separate housing unit.
 - (6) **Apartment House.** See "Dwelling, Multiple."
 - (7) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
 - (8) **Attic.** The space in a structure just below the roof and above the other rooms.
 - (9) **Authority.** A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.
 - (10) **Basement or Cellar.** A story partly underground but having at least one-half (1/2) of its height, or five (5) or more feet, below the mean level of the adjoining ground. See COMM Chapters 20, 21 and 22, Wis. Adm. Code.
 - (11) **Boardinghouse.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
 - (12) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

- (13) **Building, Alterations Of.** Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.
- (14) **Building Area.** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.
- (15) **Building, Front Line Of.** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (16) **Building, Height Of.** The vertical distance from the highest point of a finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip or gambrel roofs.
- (17) **Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.
- (18) **Business.** An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.
- (19) **Carport.** See "Garage."
- (20) **Clinic.** A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.
- (21) **Clothing Repair Shops.** Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.
- (22) **Clothing Stores.** Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.
- (23) **Club.** A building owned, leased or hired by a non-profit association of persons who are bona fide members, the use of which is restricted to said members and their guests.
- (24) **Commercial Animal Operation.** An establishment for the housing, grooming, breeding, boarding, training or selling of animals on a commercial, or gain, basis.
- (25) **Commercial Feed Lot.** Confinement of two hundred (200) or more head of livestock on a farm or other site for the purpose of intensive feeding prior to slaughter or shipment in such concentration that ground vegetation is substantially destroyed where:
 - a. The farm or site does not produce a minimum of sixty percent (60%) of the feed necessary to sustain the herd.
 - b. The farm or site is insufficient in size to provide for the disposal of all animal wastes in a manner that they will not run off, seep, percolate, or wash into surface or subsurface waters.
- (26) **Community Living Arrangement.** The following facilities licensed or operated, or permitted under the authority of Wisconsin Statutes: Child welfare agencies under

Sec. 48.60, Wis. Stats., group foster homes for children under Sec. 48.02(7m), Wis. Stats., and community-based residential facilities under Sec. 50.01, Wis. Stats.; but does not include nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including Secs. 46.03(22), 59.97(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

- (27) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a principal use in a district, allowed only under conditions specified under this Chapter.
- (28) **Conforming Use.** Any lawful use of a building or lot which complies with the provisions of this Chapter.
- (29) **Court.** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.
- (30) **Curb Break.** Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.
- (31) **Curb Level.** The level of the established curb in the front of the building measured at the center of such front.
- (32) **Day Care Center.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.
- (33) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to building, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- (34) **District.** A part or parts of the City for which the regulations of this Chapter governing the use and location of land and buildings are uniform.
- (35) **Double Wide Mobile Home.** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.
- (36) **Drive-in Restaurant.** An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.
- (37) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.
- (38) **Dwelling, Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (39) **Dwelling, One-Family.** A detached building designed, arranged or used for and occupied exclusively by one (1) family, whether attached, detached or semi-attached. Shall include specially designed buildings covered by earth and manufactured homes.

- (40) **Dwelling, Two-Family.** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (41) **Dwelling, Multiple.** A building or portion thereof used or designated as a residence for three (3) or more families as separate housekeeping units, including apartments, attached townhouses and condominiums, with the number of families in residence not to exceed the number of dwelling units provided.
- (42) **Dwelling Unit.** A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.
- (43) **Emergency Shelters.** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.
- (44) **Essential Services.** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
- (45) **Family.** One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he is dwelling for the purpose of adoption or for a foster care program.
- (46) **Farm.** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.
- (47) **Floor Area.** The sum of the gross horizontal areas of the several floors of a dwelling unit, exclusive of porches, balconies, garages, basements and cellars, measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.
- (48) **Foster Family Home.** The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under Sec. 48.62, Wis. Stats., and amendments thereto.
- (49) **Frontage.** The smallest dimension of a lot abutting a public street measured along the street line.
- (50) **Garage.** A building or portion, including carports, thereof used exclusively for parking or temporary storage of self-propelled vehicles.

- (51) **Garage, Public.** A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.
- (52) **Garage Sale.** Any display of and sale of goods, restricted to used items or homemade crafts, on a property customarily used as a residence. This is not a buy and sell operation. Sale days per month are restricted to no more than ten (10) sale days in any one calendar month per family or residence.
- (53) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.
- (54) **Gift Stores.** Retail stores where items such as art, antiques, jewelry, books, and notions are sold.
- (55) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
- (56) **Hardware Stores.** Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods and paints are sold.
- (57) **Home Occupation.** Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto and meeting the standards in Section 13-1-72.
- (58) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (59) **House Trailer.** A nonself-propelled vehicle, containing living or sleeping accommodations which is designed and used for highway travel.
- (60) **Incidental.** In this Chapter, "incidental" encompasses "secondary" and "accessory" and means developments and occupancies that are subordinate or secondary to the actual dominant use or the uses that are intended to be dominant in the District.
- (61) **Junk Yard.** An open space where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A "junk yard" also includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.
- (62) **Loading Area.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley
- (63) **Lodging House.** See "Boardinghouse."

- (64) **Lot.** A parcel of land having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter.
- (65) **Lot, Corner.** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.
- (66) **Lot Coverage.** The portions of a lot or parcel occupied by the principal structure or structures; detached garages and carports; storage buildings, sheds and enclosures; pet houses/runs.
- (67) **Lot, Interior.** A lot situated on a single street which is bounded by adjacent lots along each of its other lines.
- (68) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries. The nearest line of a public right-of-way shall be the lot line for applying the provisions of this Chapter.
- (69) **Lot Lines, Front.** Any property line separating a lot from any public or private street, but not including alleys. In the case of corner lots, the primary front lot line is that property line most parallel to the street from which access is gained; the secondary front lot line is the other lot line with street frontage. In the case of a double frontage lot, there is one (1) front lot line that is the property line most parallel to the street from which access is gained.
- (70) **Lot Line, Rear.** The lot line which is opposite and most distant from the front line. In the case of a four (4) sided lot, the owner shall select any lot line, other than one (1) of the front lot lines, to be the rear lot line. In the case of a double frontage lot, the rear lot line shall be most opposite the front lot line along the street frontage for which access is not gained. The rear lot line of any irregularly shaped lot or triangular lot shall be a line within the lot which is ten (10) feet long and most parallel to and distant from the front lot line. For a triangular lot which is also a corner lot, there shall be no rear lot line. Irregularly shaped lots and corner, triangular lots are illustrated on the following page.
- (71) **Lot Line, Side.** The lot line that is not a front lot line or a rear lot line.
- (72) **Lot Depth.** The least distance from the rear lot line to the front lot line.
- (73) **Lot of Record.** A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Polk County Register of Deeds and which exists as described therein.
- (74) **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
- (75) **Lot, Substandard.** A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and

uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.

- (76) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.
- (77) **Lot Width.** The minimum horizontal distance between the side lot lines measured along a straight line most parallel to the front lot line. This minimum measurement or greater is maintained from the front building setback to the rear building setback.
- (78) **Lot, Zoning.** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.
- (79) **Machine Shops.** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.
- (80) **Marquee or Canopy.** A roof-like structure of permanent nature which projects from the wall of a building.
- (81) **Manufactured Home.** A structure certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:
 - a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(1), Wis. Stats., and COMM 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
 - b. Is installed in accordance with the manufacturer's instructions;
 - c. Is properly connected to utilities; and
 - d. Meets other applicable standards of this Chapter.
- (82) **Minor Structures.** Any small, movable accessory erection or construction, such as birdhouses; tool houses; pethouses; play equipment; arbors; and walls and fences under four (4) feet in height.
- (83) **Mobile Home.** A unit designed to be towed or transported and used as a residential dwelling, but does not include a "manufactured home" or a unit used primarily for camping, towing, or recreational purposes.
- (84) **Mobile Home, Residential.** A residential mobile home is defined in Section 13-1-222(a)(83) of this Code of Ordinances.
- (85) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (86) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

- (87) **Motel.** A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.
- (88) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.
- (89) **Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.
- (90) **Nonconforming Uses or Structures.** Any structure, use of land, use of land and structure in combination, or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.
- (91) **Nursery.** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.
- (92) **Nursery School.** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.
- (93) **Nursing Home.** Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.
- (94) **Parking Area, Semi-Public.** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.
- (95) **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public.
- (96) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways, appurtenant thereto and giving access thereto.
- (97) **Parties In Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (98) **Party Wall.** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.
- (99) **Other Officially Approved Access.** A private road or easement extending from a private property to a component of the public street system which the City Plan Commission has approved as a primary means of access.

- (100) **Place.** An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (101) **Planned Residential Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.
- (102) **Property Lines.** The lines bounding a platted lot as defined herein.
- (103) **Public Way.** Any sidewalk, street, alley, highway or other public thoroughfare.
- (104) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed the standards in Section 13-1-72 and only one (1) nonresident person is employed.
- (105) **Railroad Right-of-Way.** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
- (106) **School, Private.** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for mental defectives or a college or other institution of higher learning.
- (107) **School, Commercial.** A school limited to special instruction such as business, art, music, trades, handicraft, dancing or riding.
- (108) **Seat.** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.
- (109) **Setback.** The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhanging eaves/cornices shall not exceed twenty-four (24) inches. Any overhang of the eave/cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of the eave/cornice over twenty-four (24) inches.
- (110) **Sign, Awning.** A sign that is mounted or painted on, or attached to an awning, canopy, or marquee.
- (111) **Sign, Copy.** The message or advertisement, and any other symbols on the face of a sign.
- (112) **Sign, Face.** The area or display surface used for the message.
- (113) **Sign, Ground.** Any sign placed upon or supported by the ground independent of any other structure.
- (114) **Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable.

- (115) **Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
- (116) **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- (117) **Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.
- (118) **Sign, Window.** A sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window.
- (119) **Story.** That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.
- (120) **Story, Half.** A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.
- (121) **Street.** A public or private thoroughfare which affords the principal means of access to abutting property.
- (122) **Street Yard.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof excluding uncovered steps. Where the street line is an arc, the street yard shall be measured from the arc. In some ordinances, the street yard is also called a setback.
- (123) **Structure.** Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- (124) **Structural Alterations.** Any change in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders.
- (125) **Trailer Park.** Any lot on which are parked two (2) or more house trailers or mobile homes for longer than forty-eight (48) hours.
- (126) **Use.** The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this Chapter.
- (127) **Use, Accessory.** A subordinate use on the same lot which is incidental and customary in connection with the principal use.
- (128) **Use, Nonconforming.** Any use of a building or premises which the effective date of this Chapter does not, even though lawfully establish, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.

- (129) **Use, Principal.** The main use of land or building as distinguished from a subordinate or accessory use.
- (130) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.
- (131) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.
- (132) **Vending Machine.** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.
- (133) **Yard.** A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this Chapter. A yard shall extend along a lot line and at right angle to such lot line between side lot line to a depth or width specified in the yard regulations for the district in which such lot is located.
- (134) **Yard, Corner Side.** A side yard which adjoins a public street.
- (135) **Yard, Front.** A yard extending along the full width of the front lot line between the side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such a lot is located.
- (136) **Yard, Rear.** A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.
- (137) **Yard, Side.** A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.
- (138) **Yard, Street.** Yard abutting a street.
- (139) **Yard, Transitional.** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
- (140) **Zero Lot Line Duplex.** This dwelling unit type consists of a single-family residence which is attached on one (1) side to another single-family residence. A zero lot line duplex is distinguished from a duplex merely by having each unit located on an individual lot. These dwelling unit types shall not be split into additional residences.
- (141) **Zoning District.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Title 13 ► Chapter 2

Floodplain Zoning

Article A Introduction

- 13-2-1** Statutory Authorization
- 13-2-2** Finding of Fact
- 13-2-3** Statement of Purpose
- 13-2-4** Title
- 13-2-5** General Provisions
- 13-2-6 through**
- 13-2-19** Reserved for Future Use

Article B General Provisions Applicable to All Floodplain Districts

- 13-2-20** Hydraulic and Hydrologic Analyses
- 13-2-21** Watercourse Alterations
- 13-2-22** Chapter 30, 31, Wis. Stats., Development
- 13-2-23** Public or Private Campgrounds
- 13-2-24 through**
- 13-2-29** Reserved for Future Use

Article C Floodway District (FW)

- 13-2-30** Applicability of Floodway District Regulations
- 13-2-31** Floodway District Permitted Uses
- 13-2-32** Standards for Developments in Floodway Areas
- 13-2-33** Prohibited Uses in the Floodway District
- 13-2-34 through**
- 13-2-39** Reserved for Future Use

Article D Floodfringe District (FF)

- 13-2-40** Applicability of Floodfringe District Regulations
- 13-2-41** Floodfringe District Permitted Uses

- 13-2-42** Standards for Development in Floodfringe Areas
13-2-43 through
13-2-49 Reserved for Future Use

Article E General Floodplain District (GFP)

- 13-2-50** Applicability of Floodplain District Regulations
13-2-51 General Floodplain District Permitted Uses
13-2-52 Standards for Development in the General Floodplain District
13-2-53 Determining Floodway and Floodfringe Limits
13-2-54 through
13-2-59 Reserved for Future Use

Article F Nonconforming Uses

- 13-2-60** General Applicability of Nonconforming Use Status
13-2-61 Floodway Areas — Nonconforming Uses
13-2-62 Floodfringe Areas — Nonconforming Uses
13-2-63 through
13-2-69 Reserved for Future Use

Article G Administration

- 13-2-70** Zoning Administrator; Permits
13-2-71 Zoning Agency
13-2-72 Board of Appeals
13-2-73 Board of Appeals to Review Appeals of Permit Denials
13-2-74 Floodproofing
13-2-75 Public Information
13-2-76 through
13-2-79 Reserved for Future Use

Article H Amendments

- 13-2-80** General Amendments
13-2-81 Procedures for Amendments
13-2-82 through
13-2-89 Reserved for Future Use

Article I

Enforcement and Penalties; Definitions

13-2-90

Enforcement and Penalties

13-2-91

Definitions

Article B: General Provisions Applicable to All Floodplain Districts

Sec. 13-2-20 Hydraulic and Hydrologic Analyses.

- (a) Except as provided in Subsection (c) below, no floodplain development shall:
 - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - (2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (b) The Zoning Administrator shall deny permits if it is determined the proposed development obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of Subsection (c) are met.
- (c) Obstructions or increases equal to or greater than 0.01 may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Secs. 13-2-80 and 13-2-81.

[Note: This Section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.]

Sec. 13-2-21 Watercourse Alterations.

- (a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.
- (b) As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, the Zoning Administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

Sec. 13-2-22 Chapter 30, 31, Wis. Stats., Development.

Development which requires a permit from the Department, under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water

surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Secs. 13-2-80 and 13-2-81.

Sec. 13-2-23 Public or Private Campgrounds.

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (a) The campground is approved by the Wisconsin Department of Health and Family Services.
- (b) A land use permit for the campground is issued by the Zoning Administrator.
- (c) The character of the river system and the elevation of the campground is such that a seventy-two (72) hour warning of an impending flood can be given to all campground occupants.
- (d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this Section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (e) This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in Subsection (d), to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Health and Family Services and all other applicable regulations.
- (f) Only camping units are allowed.
- (g) The camping units may not occupy any site in the campground for more than one hundred and eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.
- (h) All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred and eighty (180) days and shall ensure compliance with all the provisions of this Section.
- (i) The City of Amery shall monitor the limited authorization issued by the campground operator to assure compliance with the terms of this Section.
- (j) All camping units that remain in place for more than one hundred and eighty (180) consecutive days must meet the applicable requirements of either Article C or Article D of this Chapter for the floodplain district in which the structure is located.
- (k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

- (I) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Sec. 13-2-24 through Sec. 13-2-29 Reserved for Future Use.

Article C: Floodway District (FW)

Sec. 13-2-30 Applicability of Floodway District Regulations.

This Article/District applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 13-2-53.

Sec. 13-2-31 Floodway District Permitted Uses.

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- They are not prohibited by any other ordinance;
 - They meet the standards in Secs. 13-2-32 and 13-2-33; and
 - All permits or certificates have been issued according to Sec. 13-2-70:
- (a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (b) *Nonstructural* industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (c) *Nonstructural* recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of Sec. 13-2-32(d).
 - (d) Uses or structures accessory to open space uses, or classified as historic structures that comply with Secs. 13-2-32 and 13-2-33.
 - (e) Extraction of sand, gravel or other materials that comply with Sec. 13-2-32(d).
 - (f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chapters 30 and 31, Wis. Stats.
 - (g) Public utilities, streets and bridges that comply with Sec. 13-2-32(c).

Sec. 13-2-32 Standards for Developments in Floodway Areas.

- (a) **General Standards.**
 - (1) Any development in floodway areas shall comply with Article B and have a low flood damage potential.
 - (2) Applicants shall provide the following data to determine the effects of the proposal according to Sec. 13-2-20:
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

- b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The Zoning Administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subsection (a)(2) above.
- (b) **Structures.** Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - (1) The structures are not designed for human habitation and do not have a high flood damage potential;
 - (2) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
 - (3) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - (4) The structures have all service facilities at or above the flood protection elevation.
- (c) **Public Utilities, Streets and Bridges.** Public utilities, streets and bridges may be allowed by permit, if:
 - (1) Adequate floodproofing measures are provided to the flood protection elevation; and
 - (2) Construction meets the development standards of Sec. 13-2-20.
- (d) **Fills or Deposition of Materials.** Fills or deposition of materials may be allowed by permit, if:
 - (1) The requirements of Sec. 13-2-20 are met;
 - (2) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Sec. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this Article are met;
 - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - (4) The fill is not classified as a solid or hazardous waste material.

Sec. 13-2-33 Prohibited Uses In The Floodway District.

All uses not listed as permitted uses in Sec. 13-2-31 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved

campgrounds that meet the applicable provisions of local ordinances and COMM 83, Wis. Adm. Code;

- (e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and NR 811 and NR 812, Wis. Adm. Code;
- (f) Any solid or hazardous waste disposal sites;
- (g) Any wastewater treatment ponds or facilities, except those permitted under NR 110.15(3)(b), Wis. Adm. Code;
- (h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Sec. 13-2-34 through Sec. 13-2-39 Reserved for Future Use.

Article D: Floodfringe District (FF)

Sec. 13-2-40 Applicability of Floodfringe District Regulations.

This Article/District applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 13-2-53.

Sec. 13-2-41 Floodfringe District Permitted Uses

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 13-2-42 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Sec. 13-2-70 have been issued.

Sec. 13-2-42 Standards for Development in Floodfringe Areas.

- (a) **Compliance With Other Provisions.** All of the provisions of Sec. 13-2-20 shall apply. In addition, the following requirements prescribed below shall apply according to the use requested.
- (b) **Residential Uses.** Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards:
 - (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
 - (2) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in Subsection (b)(4) below;
 - (4) In developments where existing street or sewer line elevations make compliance with Subsection (b)(3) impractical, the City of Amery may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - a. The City of Amery has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

- b. The City of Amery has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(c) **Accessory Structures or Uses.**

- (1) Except as provided in Subsection (b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- (2) An accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than Ten Thousand Dollars (\$10,000.00) may be constructed with its lowest floor no more than two (2) feet below the regional flood elevation if it is subject to flood velocities of no more than two (2) feet per second, and it meets all of the provisions of Section 13-2-32(b)(1)-(4) and Subsection (f) below.

- (d) **Commercial Uses.** Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of Sec. 13-2-42(b). Subject to the requirements of Subsection (f), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

- (e) **Manufacturing and Industrial Uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in Sec. 13-2-74. Subject to the requirements of Subsection (f), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

- (f) **Storage of Materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Sec. 13-2-74. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

- (g) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans, and:

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Sec. 13-2-74 to the flood protection elevation;
- (2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

- (h) **Sewage Systems.** All on-site sewage disposal systems shall be floodproofed, pursuant to Sec. 13-2-74, to the flood protection elevation and shall meet the provisions of all local ordinances and COMM 83, Wis. Adm. Code.

- (i) **Wells.** All wells shall be floodproofed, pursuant to Sec. 13-2-74, to the flood protection elevation and shall meet the provisions of NR 811 and NR 812, Wis. Adm. Code.

- (j) **Solid Waste Disposal Sites.** Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (k) **Deposition of Materials.** Any deposited material must meet all the provisions of this Chapter.
- (l) **Manufactured Homes.**
 - (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - a. Have the lowest floor elevated to the flood protection elevation; and
 - b. Be anchored so they do not float, collapse or move laterally during the flood.
 - (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Sec. 13-2-42(b).
- (m) **Mobile Recreational Vehicles.** All mobile recreational vehicles that are on site for one hundred and eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Sec. 13-2-42(l)(1)-(2). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Sec. 13-2-43 through Sec. 13-2-49 Reserved for Future Use

Article E: General Floodplain District (GFP)

Sec. 13-2-50 Applicability of Floodplain District Regulations.

The provisions of this Article/District shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and Floodfringe Districts shall be delineated when adequate data is available.

Sec. 13-2-51 General Floodplain District Permitted Uses.

- (a) Pursuant to Sec. 13-2-54, it shall be determined whether the proposed use is located within a floodway or floodfringe area.
- (b) Those uses permitted in floodway (Sec. 13-2-31) and floodfringe areas (Sec. 13-2-41) are allowed within the General Floodplain District, according to the standards of Sec. 13-2-52, provided that all permits or certificates required under Sec. 13-2-70 have been issued.

Sec. 13-2-52 Standards for Development in the General Floodplain District.

Article C applies to floodway areas; Article D applies to floodfringe areas. The rest of this Chapter applies to either district.

Sec. 13-2-53 Determining Floodway and Floodfringe Limits.

Upon receiving an application for development within the General Floodplain District, the Zoning Administrator shall:

- (a) Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the General Floodplain District limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures;
- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (1) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing

structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil type and other pertinent information;

- (3) Profile showing the slope of the bottom of the channel or flow line of the stream;
- (4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

- (c) Transmit one (1) copy of the information described in Subsections (a) and (b) to the Department's regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Sec. 13-2-70(b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

Sec. 13-2-54 through Sec. 13-2-59 Reserved for Future Use.

Article F: Nonconforming Uses

Sec. 13-2-60 General Applicability of Nonconforming Use Status.

- (a) **Applicability.** If these standards in this Article conform with Sec. 62.23(7)(h), Wis. Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this Chapter or any amendment thereto.
- (b) **Existing Lawful Use of a Structure.** The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this Chapter may continue subject to the following conditions:
 - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this Chapter. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed two hundred (200) sq. ft. and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure;
 - (2) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this Chapter;
 - (3) The City of Amery shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
 - (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 13-2-42(b). The costs of elevating a nonconforming building or a building with a

nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this Subsection;

- (5) Except as provided in Subsection (b)(6) below, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet this Chapter's requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds fifty percent (50%) of the structure's present equalized assessed value.
- (6) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or under the regulations promulgated thereunder.
- (7) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Sec. 13-2-32(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 13-2-74 are used.

Sec. 13-2-61 Floodway Areas—Nonconforming Uses.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification/addition:
 - (1) Has been granted a permit or variance which meets all Chapter requirements;
 - (2) Meets the requirements of Sec. 13-2-60;
 - (3) Will not increase the obstruction to flood flows or regional flood height; and
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 13-2-74, by means other than the use of fill, to the flood protection elevation;
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one square inch for every one square foot (1sq. in.: 1 sq. ft.) of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking or limited storage.

- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and COMM 83, Wis. Adm. Code.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all City of Amery ordinances and NR 811 and NR 812, Wis. Adm. Code.

Sec. 13-2-62 Floodfringe Areas—Nonconforming Uses.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modifications or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Sec. 13-2-42, except where Subsection (b) below is applicable.
- (b) Where compliance with the provisions of Subsection (a) above would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Sec. 13-2-70, may grant a variance from those provisions of Subsection (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two (2) feet;
 - (5) Flood velocities will not exceed two (2) feet per second; and
 - (6) The structure will not be used for storage of materials as described in Sec. 13-2-42(f).
- (c) If neither the provisions of Subsections (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed sixty (60) square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and COMM 83, Wis. Adm. Code.

- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and NR 811 and NR 812, Wis. Adm. Code.

Sec. 13-2-63 through Sec. 13-2-69 Reserved for Future Use.

Sec. 13-2-70 Zoning Administrator; Permits.

- (a) **Administration Responsibilities.** Where a Zoning Administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under Sec. 62.23(7), Wis. Stats., these officials shall also administer this Chapter. The Zoning Administrator is authorized to administer this Chapter and shall have the following duties and powers:
- (1) Advise applicants of the provisions of this Chapter, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this Chapter and issue certificates of compliance where appropriate.
 - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as;
 - a. All permits issued, inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - d. All substantial damage assessment reports for floodplain structures.
 - (5) Submit copies of the following items to the Department's regional office:
 - a. Within ten (10) days of the decision, a copy of any decision on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning assessments. [Note: Information on conducting substantial damage assessments is available on the DNR website at:
<http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>].
 - (6) Investigate, prepare reports, and report violations of this Chapter to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department's regional office.
 - (7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.
- (b) **Land Use Permit.** A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:

- (1) **General Information.**
 - a. Name and address of the applicant, property owner and contractor;
 - b. Legal description, proposed use, and whether it is new construction or a modification.
- (2) **Site Development Plan.** A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and street center lines;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of Articles C or D are met; and
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 13-2-20. This may include any of the information noted in Sec. 13-2-32(a).
- (3) **Data Requirements to Analyze Developments.**
 - a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in Ch. 236, Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred and Twenty-five Thousand Dollars (\$125,000.00). The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 2. A map showing location and details of vehicular access to lands outside the floodplain; and
 3. A surface drainage plan showing how flood damage will be minimized.

[**Note:** The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.]
- (4) **Expiration.** All permits issued under the authority of this Chapter shall expire three hundred and sixty-five (365) days after issuance.

- (c) **Certificate of Compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Chapter;
 - (2) Application for such certificate shall be concurrent with the application for a permit;
 - (3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;
 - (4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of Sec. 13-2-74.
- (d) **Other Permits.** The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Sec. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

Sec. 13-2-71 Zoning Agency.

- (a) The City of Amery Plan Commission shall:
- (1) Oversee the functions of the office of the Zoning Administrator; and
 - (2) Review and advise the Common Council on all proposed amendments to this Chapter, maps and text.
- (b) The City of Amery Plan Commission shall not:
- (1) Grant variances to the terms of this Chapter in place of action by the Board of Appeals; or
 - (2) Amend the text or zoning maps in place of official action by the Common Council.

Sec. 13-2-72 Board of Appeals.

The Board of Appeals, created under Sec. 62.23(7)(e), Wis. Stats., for village and cities is hereby authorized to act for the purposes of this Chapter. The Board of Appeals shall exercise the powers conferred by the Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the secretary of the Board of Appeals:

(a) **Powers and Duties.**

- (1) **Appeals.** The Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.

- (2) **Boundary Disputes.** The Board of Appeals shall hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) **Variances.** The Board of Appeals shall hear and decide, upon appeal, variances from the standards of this Chapter.

(b) **Appeals to the Board of Appeals.**

- (1) **Eligible Parties.** Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer or department of the City of Amery affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the Board of Appeals, by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board of Appeals all records regarding the matter appealed.

(2) **Notice and Hearing for Appeals Including Variances.**

- a. **Notice.** The Board of Appeals shall:
 - 1. Fix a reasonable time for the hearing;
 - 2. Publish adequate notice pursuant to the Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - 3. Assure that notice shall be mailed to the parties in interest and the Department's regional office at least ten (10) days in advance of the hearing.
- b. **Hearing.** Any party may appear in person or by agent or attorney. The Board of Appeals shall:
 - 1. Resolve boundary disputes according to Subsection (c) below.
 - 2. Decide variance applications according to Subsection (d) below.
 - 3. Decide appeals of permit denials according to Sec. 13-2-73.

(3) **Decision.** The final decision regarding the appeal or variance application shall:

- a. Be made within a reasonable time;
- b. Be sent to the Department's regional office within ten (10) days of the decision;
- c. Be a written determination signed by the chairperson or secretary of the Board of Appeals;
- d. State the specific facts which are the basis for the Board of Appeals' decision;
- e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
- f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board of Appeals' proceedings.

(c) **Boundary Disputes.** The following procedure shall be used by the Board of Appeals in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

- (2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.
- (3) If the boundary is incorrectly mapped, the Board of Appeals should inform the Plan Commission or the person contesting the boundary location to petition the governing body for a map amendment according to Secs. 13-2-80 and 13-2-81.

(d) **Variances.**

- (1) The Board of Appeals may, upon appeal, grant a variance from the standards of this Chapter if an applicant convincingly demonstrates that:
 - a. Literal enforcement of the Chapter's provisions will cause unnecessary hardship;
 - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions not common to adjacent lots or premises. In such cases this Chapter or map must be amended;
 - c. The variance is not contrary to the public interest; and
 - d. The variance is consistent with the purpose of this Chapter in Sec. 13-2-3.
- (2) In addition to the criteria in Subsection (d)(1), to qualify for a variance under FEMA regulations, the following criteria must be met:
 - a. The variance may not cause any increase in the regional flood elevation;
 - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this Chapter.
- (3) A variance shall not:
 - a. Grant, extend or increase any use prohibited in the zoning district.
 - b. Be granted for a hardship based solely on an economic gain or loss.
 - c. Be granted for a hardship which is self-created.
 - d. Damage the rights or property values of other persons in the area.
 - e. Allow actions without the amendments to this Chapter or map(s) required in Sec. 13-2-80.
 - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted, the Board of Appeals shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

Sec. 13-2-73 Board of Appeals to Review Appeals of Permit Denials.

- (a) The Board of Appeals shall review all data related to the appeal. This may include:
 - (1) Permit application data listed in Sec. 13-2-70(b).

- (2) Floodway/floodfringe determination data in Sec. 13-2-53.
 - (3) Data listed in Sec. 13-2-32(a)(2)b where the applicant has not submitted this information to the Zoning Administrator.
 - (4) Other data submitted with the application, or submitted to the Board of Appeals with the appeal.
- (b) For appeals of all denied permits the Board of Appeals shall:
- (1) Follow the procedures of Sec. 13-2-72;
 - (2) Consider the Zoning Administrator's recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the Board of Appeals shall:
- (1) Uphold the denial where the Board of Appeals agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

Sec. 13-2-74 Floodproofing.

- (a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (b) Floodproofing measures shall be designed to:
- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (c) Floodproofing measures can include:
- (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - (2) Adding mass or weight to prevent flotation.
 - (3) Placing essential utilities above the flood protection elevation.
 - (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - (5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

Sec. 13-2-75 Public Information.

The City of Amery may do the following:

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) All real estate transfers should show what floodplain zoning district any real property is in.

Sec. 13-2-76 through Sec. 13-2-79 Reserved for Future Use

Article H: Amendments

Sec. 13-2-80 General Amendments.

The Common Council may change or supplement the floodplain zoning district boundaries and this Chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (e) Any upgrade to a floodplain zoning ordinance text required by NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the City of Amery.
- (f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

[**Note:** Consult the FEMA web site - www.fema.gov - for a current map change fee schedule.]

Sec. 13-2-81 Procedures for Amendments.

- (a) Ordinance amendments to this Chapter may be made upon petition of any interested party according to the provisions of Sec. 62.23, Wis. Stats. Such petitions shall include all necessary data required by Secs. 13-2-53 and 13-2-70(b).
- (b) The proposed amendment shall be referred to the Plan Commission for a public hearing and recommendation to the Common Council. The amendment and notice of public hearing shall be submitted to the Department's regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Sec. 62.23, Wis. Stats.
- (c) No amendments shall become effective until reviewed and approved by the Department.
- (d) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the Common Council.
- (e) For amendments in areas with no water surface profiles, the Plan Commission shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information [See Sec. 13-2-5(d)].

Sec. 13-2-82 through Sec. 13-2-89 Reserved for Future Use

Article I: Enforcement and Penalties; Definitions

Sec. 13-2-90 Enforcement and Penalties.

Any violation of the provisions of this Chapter by any person shall be unlawful and shall be referred to the City of Amery city attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the City of Amery a penalty of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the City of Amery, the state, or any citizen thereof pursuant to Sec. 87.30, Wis. Stats.

Sec. 13-2-91 Definitions.

- (a) **Definitions Established.** Unless specifically defined below, words and phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and not discretionary:
- (1) **A-Zones.** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A-Zones. The A-Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
 - (2) **Accessory Structure or Use.** A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
 - (3) **Base Flood.** The flood having a one percent (1%) chance of being equalled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
 - (4) **Basement.** Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.
 - (5) **Building.** See "Structure."
 - (6) **Bulkhead Line.** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to Sec. 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this Chapter.
 - (7) **Campground.** Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.

- (8) **Camping Unit.** Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.
- (9) **Certificate of Compliance.** A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.
- (10) **Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (11) **Crawlways or Crawl Space.** An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.
- (12) **Deck.** An unenclosed exterior structure that has no roof or sides, but has a permeable floor.
- (13) **Department.** The Wisconsin Department of Natural Resources.
- (14) **Development.** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- (15) **Dryland Access.** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (16) **Encroachment.** Any fill, structure, equipment, building, use or development in the floodway.
- (17) **Existing Manufactured Home Park or Subdivision.** A parcel of land, divided into two (2) or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the original effective date of this Chapter/ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- (18) **Expansion to Existing Mobile/Manufactured Home Park.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (19) **Federal Emergency Management Agency (FEMA).** The federal agency that administers the National Flood Insurance Program.

- (20) **Flood Insurance Rate Map (FIRM).** A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (floodplains) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency (FEMA).
- (21) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - a. The overflow or rise of inland waters;
 - b. The rapid accumulation or runoff of surface waters from any source;
 - c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - d. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (22) **Flood Frequency.** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (23) **Floodfringe.** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (24) **Flood Hazard Boundary Map.** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (25) **Flood Insurance Study.** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (26) **Floodplain.** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (27) **Floodplain Island.** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (28) **Floodplain Management.** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

- (29) **Flood Profile.** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (30) **Floodproofing.** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (31) **Flood Protection Elevation.** An elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (See also "Freeboard").
- (32) **Flood Storage.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (33) **Floodway.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (34) **Freeboard.** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (35) **Habitable Structure.** Any structure or portion thereof used or designed for human habitation.
- (36) **Hearing Notice.** Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class I notice, published once at least one (1) week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class II notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (37) **High Flood Damage Potential.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (38) **Historic Structure.** Any structure that is either:
 - a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places with historic preservation programs which have been approved by the Secretary of the Interior;or

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or by the Secretary of the Interior in states without approved programs.
- (39) **Increase in Regional Flood Height.** A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (40) **Land Use.** Any nonstructural use made of unimproved or improved real estate. (Also see "Development".)
- (41) **Manufactured Home.** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (42) **Mobile Recreational Vehicle.** A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles".
- (43) **Municipality or Municipal.** The county, city or village governmental units enacting, administering and enforcing this Chapter.
- (44) **NAVD or North American Vertical Datum.** Elevations referenced to mean sea level datum, 1988 adjustment.
- (45) **NGVD or National Geodetic Vertical Datum.** Elevations referenced to mean sea level datum, 1929 adjustment.
- (46) **New Construction.** For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (47) **Nonconforming Structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Chapter for the area

of the floodplain which it occupies. (For example, an existing residential structure in the Floodfringe District is a conforming use; however, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

- (48) **Nonconforming Use.** An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this Chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (49) **Obstruction to Flow.** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (50) **Official Floodplain Zoning Map.** That map, adopted and made part of this Chapter, as described in Sec. 13-2-5(b), which has been approved by the Department and FEMA.
- (51) **Open Space Use.** Those uses having a relatively low flood damage potential and not involving structures.
- (52) **Ordinary Highwater Mark.** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (53) **Person.** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (54) **Private Sewage System.** A sewage treatment and disposal system serving one (1) structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Wisconsin Department of Commerce, including a substitute for the septic tank or soil absorption field, a hold tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.
- (55) **Public Utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (56) **Reasonably Safe From Flooding.** Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (57) **Regional Flood.** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent (1%) chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (58) **Start of Construction.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The

actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- (59) **Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (60) **Subdivision.** Has the meaning given in Sec. 236.02(12), Wis. Stats.
- (61) **Substantial Damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the equalized assessed value of the structure before the damage occurred.
- (62) **Unnecessary Hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the Chapter.
- (63) **Variance.** An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (64) **Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (65) **Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.
- (66) **Water Surface Profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (67) **Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Title 13 ► Chapter 3

Shoreland-Wetland Zoning

Article A Statutory Authorization; Findings of Fact; Statement of Purpose and Title

- 13-3-1** Statutory Authorization
- 13-3-2** Findings of Fact
- 13-3-3** Title of Chapter
- 13-3-4 through**
- 13-3-9** Reserved for Future Use

Article B General Provisions

- 13-3-10** Compliance
- 13-3-11** Municipalities and State Agencies Regulated
- 13-3-12** Abrogation and Greater Restrictions
- 13-3-13** Interpretation
- 13-3-14** Severability
- 13-3-15** Annexed Areas
- 13-3-16 through**
- 13-3-19** Reserved for Future Use

Article C Shoreland-Wetland Zoning District

- 13-3-20** Official Shoreland-Wetland Zoning Maps
- 13-3-21** District Boundaries
- 13-3-22** Permitted Uses
- 13-3-23** Prohibited Uses
- 13-3-24** Nonconforming Structures and Uses
- 13-3-25 through**
- 13-3-29** Reserved for Future Use

Article D

Administrative Provisions

- 13-3-30** Zoning Administrator
- 13-3-31** Zoning Permits
- 13-3-32** Certificates of Compliance
- 13-3-33** Conditional Use Permits
- 13-3-34** Fees
- 13-3-35** Recording
- 13-3-36** Revocation
- 13-3-37** Board of Appeals
- 13-3-38** Amending Shoreland-Wetland Zoning Regulations
- 13-3-39** Reserved for Future Use

Article E

Penalties; Definitions

- 13-3-40** Enforcement and Penalties
- 13-3-41** Definitions

Article A: Statutory Authorization; Findings of
Fact; Statement of Purpose and Title

Sec. 13-3-1 Statutory Authorization.

This Chapter is adopted pursuant to the authorization in Sections 62.23, 62.231, 87.30 and 144.26, Wis. Stats.

Sec. 13-3-2 Findings of Fact.

Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Amery would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (a) Promote the public health, safety, convenience and general welfare;
- (b) Maintain the storm and flood water storage capacity of wetlands;
- (c) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (e) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

Sec. 13-3-3 Title of Chapter.

Shoreland-Wetland Zoning Ordinance/Chapter for the City of Amery, Wisconsin.

Sec. 13-3-4 through Sec. 13-3-9 Reserved for Future Use.

Article B: General Provisions

Sec. 13-3-10 Compliance.

The use of wetlands and the alteration of wetlands within the shoreland area of the City of Amery shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-3-24 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

Sec. 13-3-11 Municipalities and State Agencies Regulated.

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a), Wis. Stats., applies.

Sec. 13-3-12 Abrogation and Greater Restrictions.

- (a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Section 61.35, 62.23 or 87.30, Wis. Stats., which relates to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

Sec. 13-3-13 Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

Sec. 13-3-14 Severability.

Should any portion of this Chapter be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

Sec. 13-3-15 Annexed Areas.

The shoreland zoning provisions of Polk County in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982, until the City enacts, administers and enforces a zoning ordinance for the annexed area that complies with the requirements of Ch. NR 115, Wis. Adm. Code and is at least as restrictive as the above-described Polk County shoreland zoning provisions. These annexed lands are described on the municipality's official zoning map. The Polk County shoreland zoning provisions are incorporated by reference for the purpose of administering this Chapter and are on file in the office of the municipal zoning administrator.

Sec. 13-3-16 through Sec. 13-3-19 Reserved for Future Use.

Article C: Shoreland-Wetland Zoning District

Sec. 13-3-20 Official Shoreland-Wetland Zoning Maps.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the City Administrator:

- (a) Wisconsin Wetland Inventory maps stamped "FINAL" on July 10, 1986 as amended to reflect municipal boundaries as of December 1, 1986, and as revised on February 9, 1994.
- (b) Zoning Maps titled "City of Amery Zoning Map".
- (c) Floodplain Zoning Maps titled "Flood Insurance Rate Map With Corresponding Profiles Contained in the Flood Insurance Study, dated September 18, 1991.

Sec. 13-3-21 District Boundaries.

- (a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the City of Amery, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-20 and which are:
 - (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City of Amery shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-20 of this Chapter.
 - (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-20. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the City.
- (b) **Determinations of Navigability.** Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.
- (c) **Discrepancies.** When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district

boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in Sections 13-3-21(d) and 13-3-21(e), the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

Sec. 13-3-22 Permitted Uses.

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- (a) **No Wetland Alteration.** Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
 - (4) The pasturing of livestock;
 - (5) The cultivation of agricultural crops; and
 - (6) The construction and maintenance of duck blinds.
- (b) **Wetland Alteration Restricted.** Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
 - (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (3) The maintenance and repair of existing drainage to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible, and that dredged spoil is placed on existing spoil banks where possible;
 - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

- (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-3-37(c) of this Chapter; and
 - (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) **Permit Required.** Uses which are allowed upon the issuance of a simple zoning permit and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:
 - a. The road cannot, as a practical matter, be located outside the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-37(c) of this Chapter;
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only; and
 - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (2) The construction and maintenance of nonresidential buildings provided that:
 - a. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. The building does not exceed five hundred (500) square feet in floor area; and
 - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
 - (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and

- d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, and sewage collection lines, and related facilities and the construction and maintenance of railroad lines provided that:
 - a. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-37 (c) of this Chapter.

Sec. 13-3-23 Prohibited Uses.

- (a) **Rezoning Required.** Any use not listed in Section 13-3-22 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-37 of this Chapter.
- (b) **Other Prohibited Uses.** The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

Sec. 13-3-24 Nonconforming Structures and Uses.

The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (a) **Reconstruction and Repair.** The shoreland-wetland provisions of this ordinance authorized by Sec. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.
- (b) **Nonconforming Use Discontinued.** If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.

- (c) **Nonconforming Use Without a Structure.** Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Sections 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.
- (d) **Boathouses.** The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Sec. 30.121, Wis. Stats.
- (e) **Nuisances.** Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

Sec. 13-3-25 through Sec. 13-3-29 Reserved for Future Use.

Article D: Administrative Provisions

Sec. 13-3-30 Zoning Administrator.

The City Zoning Administrator is appointed Zoning Administrator for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and inspect properties for compliance with this Chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.
- (f) Investigate and report violations of this Chapter to the appropriate City planning agency and the District Attorney, corporation counsel or City Attorney.

Sec. 13-3-31 Zoning Permits.

- (a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-3-41(b)(6) of this Chapter, or any change in the use of an existing building or structure is initiated.
- (b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the City and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - (1) **General Information.**
 - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.
 - c. Whether or not a private water or sewage system is to be installed.
 - (2) **Site Development Plan.** The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;

- c. Description of any existing or proposed on-site sewage systems or private water supply systems;
 - d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Boundaries of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
 - h. Location of existing or future access roads; and
 - i. Specifications and dimensions for areas of proposed wetland alteration.
- (c) **Expiration.** All permits issued under the authority of this Chapter shall expire twelve (12) months from the date of issuance.

Sec. 13-3-32 Certificates of Compliance.

- (a) **Certificates of Compliance.** Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Chapter.
 - (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 - (3) The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this Chapter.
- (b) **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Common Council.
- (c) **Issued Upon Written Request.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

Sec. 13-3-33 Conditional Use Permits.

- (a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals following the procedures in Section 13-3-37(b), (c) and (d).

- (b) **Conditions.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 13-3-22, the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: Type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

Sec. 13-3-34 Fees.

The Common Council, by resolution, shall establish fees for the following:

- (a) Zoning permits.
- (b) Public hearings.
- (c) Legal notice publications.
- (d) Conditional use permits.
- (e) Rezoning petitions.
- (f) Certificates of compliances.

Sec. 13-3-35 Recording.

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

Sec. 13-3-36 Revocation.

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

Sec. 13-3-37 Board of Appeals.

- (a) **Appointment.** The Mayor shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.

- (b) **Powers and Duties.** The Board of Appeals shall:
 - (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
 - (2) Hear and decide applications for conditional use permits under this Chapter.
 - (3) May authorize, upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
 - a. That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
 - b. That the hardship is due to special conditions unique to the property; and is no self-created or based solely on economic gain or loss.
 - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter.
 - d. That such variance will not grant or increase any use of property which is prohibited in the zoning district.
- (c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- (d) **Public Hearings.**
 - (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 - (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) **Decisions.**
 - (1) The final disposition of an appeal, or application for a conditional use permit, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.
 - (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within one hundred ninety (190) days after the decision is issued.

Sec. 13-3-38 Amending Shoreland-Wetland Zoning Regulations.

The Common Council may alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(d)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:

- (a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the City planning agency.
- (b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least twenty (20) days prior to such hearing.
- (c) In order to insure that the shoreland protection objectives in Section 144.26, Wis. Stats., will be accomplished by the amendment, the Common Council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (1) Storm and flood water storage capacity;
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- (e) The appropriate district office of the Department shall be provided with:
 - (1) A copy of the recommendations and report, if any, of the municipal planning agency on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and
 - (2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council approval was mailed to the Department, as required

by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Common Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Section 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6) and 61.351(6), Wis. Stats., is completed or otherwise terminated.

Sec. 13-3-39 Reserved for Future Use.

Article E: Penalties; Definitions

Sec. 13-3-40 Enforcement and Penalties.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council and the City Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture of not less than Fifteen Dollars (\$15.00) nor more than Two Hundred Dollars (\$200.00) per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

Sec. 13-3-41 Definitions.

- (a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- (b) The following terms used in this Chapter mean:
 - (1) **Accessory Structure or Use.** A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
 - (2) **Boathouse.** As defined in Section 30.121(1), Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
 - (3) **Class 2 Public Notice.** Publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.
 - (4) **Conditional Use.** A use which is permitted by this Chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
 - (5) **Department.** The Wisconsin Department of Natural Resources.

- (6) **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- (7) **Drainage System.** One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (8) **Environmental Control Facility.** Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
- (9) **Fixed Houseboat.** As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
- (10) **Navigable Waters.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Sections 62.351 and 62.221, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river;
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use
- (11) **Ordinary High-Water Mark.** The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.
- (12) **Planning Agency.** The Plan Commission created under Section 62.23(1), Wis. Stats.
- (13) **Shorelands.** Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

- (14) **Shoreland-Wetland District.** The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-20 of this Chapter.
- (15) **Unnecessary Hardship.** That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
- (16) **Variance.** An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.
- (17) **Wetlands.** Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (18) **Wetland Alteration.** Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

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